

**THE MAHE LAND REFORMS ACT, 1968**

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(Act No. 1 of 1968 )

22nd March, 1968.

### **AN ACT**

**to enact a comprehensive legislation relating to land reforms in Mahe region of the Union territory of Pondicherry.**

WHEREAS it is expedient to enact a comprehensive legislation relating to land reforms in the Mahe region of the Union territory of Pondicherry ;

BE it enacted by the Legislative Assembly of Pondicherry in the Nineteenth Year of the Republic of India as follows :-

### **CHAPTER I**

#### **PRELIMINARY**

##### **Short title, extent and commencement.**

1. (1) This Act may be called the Mahe Land Reforms Act, 1968.

(2) It extends to the whole of Mahe region of the Union territory of Pondicherry.

<sup>1</sup>(3) The provisions of this Act, except this section which shall come into force at once, shall come into force on such date as the Government may, by notification in the Official Gazette, appoint :

Provided that different dates may be appointed for different provisions of this Act, and any reference to the commencement of this Act in relation to any such provision, shall be constructed as a reference to the coming into force of that provision.

#### **Definitions .**

2. In this Act, unless the context otherwise requires,-

(1) "agricultural laborer" means a person whose principal means of livelihood is the income he gets as wages, in connection with the agricultural operations he performs;

(2) "agricultural year" means the year commencing with the 1st April in any year and ending with the 31st March of the year next succeeding, provided that the Collector may, with respect to any crop, area or category of land, by notification in the Official Gazette, specify the year between such other dates, as he may deem fit, as an agricultural year;

(3) "ceiling area" means the extent of land specified in section 92 as the ceiling area;

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1. The Act came into force from 22nd March, 1968 vide Extraordinary Gazette No. 23, dated 22nd March, 1968.

(4) "Collector" means the chief officer in charge of the revenue administration of the Union territory of Pondicherry, and includes in relation to any function to be performed by the Collector under this Act, such other officer not below the rank of a gazetted officer as the Government may, by notification in the Official Gazette, appoint for the purpose;

(5) "commercial site" means any land (not being a kudiyiruppu or a kudikidappu) which is used principally for the purposes of any trade, commerce, industry, manufacture or business;

(6) "court" means where a particular court is not specifically mentioned, the court having jurisdiction, under the law for the time being in force relating to civil procedure, to entertain the suit for the possession of the holding or part thereof to which any legal proceeding under this Act relates;

(7) "cultivate" with its grammatical variations means cultivate either solely by one's own labour or with the help of the members of his family or hired labourers or both, or personally direct or supervise cultivation by such members or hired labourers or both provided that such members or hired laborers have not agreed to pay or to take any fixed proportion of the produce of the land they cultivate as compensation for being allowed to cultivate it or as remuneration for cultivating it.

**Explanation.-** For the purposes of this clause, "members of family" shall mean,-

(i) in the case of lands held by a joint family, members of such family; and

(ii) in any other case, wife or husband, as the case may be, and the lineal descendants;

(8) "cultivating tenant" means a tenant who is in actual possession of, and is entitled to cultivate, the land comprised in his holding;

(9) "customary dues" means anything, other than rent, michavaram or renewal fees,-

(i) payable in cash or in kind by a tenant to his landlord; or

(ii) allowed to be taken by the landlord from the holding, periodically or on the happening of any event or on the occasion of any festival, and includes onakazhcha, utsavakoppu, perunnalkazhcha, nombacharam and vishoukazhcha;

(10) "double-crop nilam" means nilam on which more than one crop of paddy is ordinarily raised in an agricultural year;

(11) "dry land" means land which is not nilam, garden or palliyal land :

(12) "eviction" means the recovery of possession of land from a tenant or the recovery of a kudikidappu from the occupation of the kudikidappukaran;

(13) "fair rent" means the rent payable by a cultivating tenant under section 33 or section 37 or section 39;

(14) "family" means husband, wife and their unmarried minor children or such of them as exist;

(15) "garden" means land used principally for growing coconut trees, arecanut trees or pepper vines, or any two or more of the same;

(16) "Government" means the Administrator of the Union territory of Pondicherry appointed by the President of India under article 239 of the Constitution;

(17) "gross produce", in the case of a nilam means the normal produce of that nilam less the cost of harvesting and, in the case of a garden or dry land, means the normal produce of that garden or dry land:

Provided that in determining the gross produce in the case of any double-crop nilam, account shall be taken as though only a single paddy crop, which shall be the principal crop, has been raised on the land, if it had been converted, from single-crop into double-crop nilam at the tenant's expense, and as though two paddy crops have been raised on the land in other cases.

**Explanation.-** For the purposes of this clause, "normal produce" in respect of any land means the produce which would be raised in the rainfall and the season were of a normal character;

(18) "holding" means a parcel or parcels of land held under a single transaction by a tenant from a landlord and shall include any portion of a holding as above defined which the landlord and tenant have agreed or are bound to treat as a separate holding.

**Explanation.-** Where by act of parties or by operation of law, the interest of the tenant in his holding has been severed, splitting up the holding into two or more parts, or a portion of the holding has been sub-leased, before the commencement of this Act, each such part or as the case may be, the portion retained by the tenant or the portion sub-leased, shall be deemed to be a separate holding; but the rights of the landlord to recover proportionate rent and to exercise the right of resumption, if any, shall not be affected thereby;

(19) "improvement" means any work or product of a work which adds to the value of the holding, is suitable to it and is consistent with the purpose for which the holding was let, mortgaged or occupied, but does not include such clearances, embankments, levelling, enclosures, temporary wells and water channels as are made by the tenant in the ordinary course of cultivation and without any special expenditure or any other benefit accruing to land from the ordinary operations of husbandry;

**Explanation.-** Until the contrary is shown, the following works or the products of such works shall be presumed to be improvements for the purposes of this Act, namely :-

- (a) the erection of dwelling houses, buildings, appurtenant thereto and farm buildings;
- (b) the construction of tanks wells, channels, dams and other works for the storage or supply of water for agricultural or domestic purposes;
- (c) the preparation of land for irrigation;
- (d) the conversion of one-crop into two-crop land;
- (e) the drainage, reclamation from rivers or other waters or protection from floods or from erosion or other damage by water, of land used for agricultural purposes or of waste-land which is culturable;
- (f) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;
- (g) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto; and
- (h) the planting or protection and maintenance of fruit trees, timber trees and other useful trees and plants;

(20) "Intermediary" means any person who, not being a landlord or mortgagee, has an interest in the land and is entitled, by reason of such interest, to possession thereof, but has transferred such possession to any other person otherwise than by way of mortgage;

(21) "joint family" means a Hindu undivided family, a marumakkathayam tarwad or tavazhi, an aliasanthana kutumba or kavaru or a nambudiri illam;

(22) "kanam" means the transfer for consideration, in money or in kind or in both, by a landlord of an interest in specific immovable property to another person for the latter's enjoyment, whether described in the document evidencing the transaction as kanam or kanapattam, the incidents of which transfer include-

(a) a right in the transferee to hold the said property liable for the consideration paid by him or due to him;

(b) the liability of the transferor to pay to the transferee interest on such consideration unless otherwise agreed to by the parties; and

(c) payment of michavaram or customary dues or of renewal fee on the expiry of any specified period.

**Explanation.-** For the purposes of the clause, where there has been no stipulation in the document evidencing the transaction for renewal on the expiry of any specified period, but there has been a renewal or payment of renewal fees, it shall be deemed that there had been a provision for such renewal in the document;

(23) "kanam-kuzhikanam" means and includes a transfer by a landlord to another person of garden lands or of other lands or of both, with the fruit-bearing trees, if any, standing thereon at the time of the transfer, for the enjoyment of those trees and for the purpose of planting such fruit-bearing trees thereon, the incidents of which transfer include-

(a) a right in the transferee to hold the said lands liable for the consideration paid by him or due to him, which consideration is called 'kanartham'; and

(b) the liability of the transferor to pay to the transferee interest on the kanartham unless otherwise agreed to by the parties:

Provided that a usufructuary mortgage shall not be deemed to be a kanam-kuzhikanam;

(24) "kudikidappukaran" means a person who has neither a homestead nor any land exceeding three cents in extent, either as owner or as tenant in possession, on which he could erect a homestead, and-

(i) who has been permitted, with or without an obligation, to pay rent, by a person in lawful possession of any land, to have the use and occupation of a portion of such land for the purpose of erecting a homestead; or

(ii) who has been permitted by a person in lawful possession of any land, to occupy, with or without an obligation to pay rent, a hut belonging to such person and situate in the said land, but otherwise has no interest in the land; and

"kudikidappu" means the land and the homestead or the hut so permitted to be erected or occupied together with the easements attached thereto:

Provided that a person shall not be deemed to be a kudikidappukaran if the aforesaid permission was granted after the 28th April, 1962, by a mortgagee in possession or by a tenant from whom the land in which the kudikidappu is situate is liable to be resumed:

Provided further that a person shall not be deemed to be a kudikidappukaran if the aforesaid permission was granted in respect of any hut not belonging to him and situate in any area or land which is appurtenant to a mill, factory or workshop, and in connection with the employment of such person in the mill, factory or workshop; unless he was, immediately before the commencement of this Act, entitled to the rights of a kudikidappukaran or the holder of a protected ulkudi or kudikidappu under any law then in force.

**Explanation I.-** For the purposes of this clause, 'hut' means any dwelling house which was constructed at a cost not exceeding five hundred rupees, or could have, at the time of construction, yielded a monthly rent not exceeding five rupees.

**Explanation II.-** Any person who was in occupation of a kudikidappu on the 28th April, 1962, and who continued to be in such occupation at the commencement of this Act, shall be deemed to be in occupation of such kudikidappu with permission as required under this clause.

**Explanation III.-** Where any kudikidappukaran secures any mortgage with the possession over the land in which the kudikidappu is situate, his kudikidappu rights shall revive on the redemption of the mortgage, provided that he has at the time of the redemption no other homestead or any land exceeding three cents in extent, either as owner or as tenant in possession, on which he could erect a homestead.

**Explanation IV.-** Where a mortgagee with possession erects for his residence a hut on the land to which the mortgage relates, he shall notwithstanding the redemption of the mortgage, be deemed to be a kudikidappukaran in respect of such hut, provided that at the time of redemption-

(a) he has no other homestead or any land exceeding three cents in extent, either as owner or as tenant in possession, on which he could erect a homestead; or

(b) his annual income does not exceed one thousand and five hundred rupees.

**Explanation V.-** Where a kudikidappukaran transfers his right in the kudikidappu to another person, such person shall be deemed to be a kudikidappukaran if-

(a) he has no other homestead or any land exceeding three cents in extent, either as owner or as tenant in possession, on which he could erect a homestead; or

(b) his annual income does not exceed one thousand and five hundred rupees;

(25) "kudiyiruppu" means a holding or part of a holding consisting of the site of any residential building, the site or sites of other buildings appurtenant thereto, such other lands as are necessary for the convenient enjoyment of such residential building and easements attached thereto, but does not include a kudikidappu;

(26) "kuzhikanam" means and includes a transfer by a landlord to another person of garden lands or of other lands or of both, with the fruit-bearing trees, if any, standing thereon at the time of the transfer for the enjoyment of those trees and for the purpose of planting such fruit-bearing trees thereon, but shall not include a usufructuary mortgage;

(27) "landlord" means a person under whom a tenant holds and to whom he is liable to pay rent, and includes a landowner;

(28) "landowner" or "owner" means a person entitled to the absolute proprietorship of land and includes-

(a) a trustee in respect thereof; and

(b) a pattadar of ryotwari land;

(29) "Land Board" means the Land Board constituted under section 110;

(30) "Land Tribunal" means a Land Tribunal constituted under section 109;

(31) "licensee" means any person who is in occupation of any nilam belonging to another and who, under any local custom or usage or under an agreement, cultivates that nilam, with paddy for a

remuneration and with the risk of cultivation, but does not include a person who cultivates the nilam of another merely as an agent or servant;

(32) "Mahe" means commune of Mahe in the Union territory of Pondicherry;

(33) "member of the Armed forces" means a person in the service of the Air Force, Army or Navy of the Union of India;

(34) "michavaram" means whatever is agreed by a kanamdar to be paid periodically as residual rent, in money or in kind or in both to, or on behalf of the landlord, but does not include customary dues;

(35) "net income" means income derived from any property after deducting therefrom the cultivation expenses or charges for maintaining fruit trees, timber trees or other useful trees and plants, and taxes and access due to the Government or any local authority;

(36) "nilam" means land adapted for the cultivation of paddy;

(37) "palliyal land" means land which is used ordinarily for raising seedlings of paddy and includes land so used and known as pallimanayal, myal, potta, njal, njattadi or banabettu;

(38) "pay" means its grammatical variations includes deliver:

(39) "person" shall include a company, family, joint family, association or other body of individuals, whether incorporated or not, and any institution capable of holding property;

(40) "possession" in relation to land includes occupation of land by a person deemed to be a tenant under section 4, section 5 or section 6;

(41) "prescribed" means prescribed by rules made under this Act;

(42) "rent" means whatever is lawfully payable in money or in kind or in both by a person permitted to have the use and occupation of any land to the person so permitting, and includes michavaram, but does not include customary dues;

(43) "resumption" means the recovery of possession of land from a tenant;

(44) "Scheduled Castes" means the Scheduled Castes in relation to the Union territory of Pondicherry as specified in the Constitution (Pondicherry) Scheduled Castes Order, 1964;

(45) "seaman" means every person (including a master, pilot or apprentice) employed or engaged as a member of the crew of a ship or a sailing vessel to which the merchant Shipping Act, 1958 (Central Act 44 of 1958) applies;

(46) "small holder" means a landlord who does not have interest in land exceeding eight standard acres or twenty-four acres in extent, whichever is less, as owner, intermediary, or cultivating tenant, or in two or more of the above capacities, so, however, that the extent of non-resumable land in his possession as owner, or as cultivating tenant, or partly as owner and partly as cultivating tenant, does not exceed-

(i) four standard acres; or

(ii) four acres in extent,

whichever is greater.

**Explanation.-** For the purposes of this clause, a person who was in possession of, or had

interest in, land exceeding the limits specified in this clause immediately before the 28th April, 1962, but such extent of land was reduced to the said limits or below by partition or transfer effected after the date mentioned above, shall not be deemed to be a small holder; nor shall such partition or transfer entitle the allottee or transferee to exercise the rights of a small holder in respect of the land allotted or transferred to him;

(47) "standard acre" means, in relation to any class of land specified in Schedule I, the extent of land specified against it in that Schedule;

(48) "tenant" means any person who has paid or has agreed to pay rent or other consideration, for his being allowed by another to possess and to enjoy the land of the latter, and includes-

(a) an intermediary,

(b) a kanamdar,

(c) a kanam-kuzhikanamdar,

(d) a kuzhikanamdar,

(e) a varamdar,

(f) a verumpattamdar,

(g) the holder of a kudiyruppu, and

(h) a person who is deemed to be a tenant under section 4, section 5 or section 6;

(49) "timber trees" means trees, the yield or income from which has not to be taken into account for the determination of fair rent;

(50) "to hold land" means to be in possession of land as owner or as tenant or partly as owner and partly as tenant;

(51) "Union territory" means the Union territory of Pondicherry;

(52) "usufructuary mortgage" means a transaction wherein the mortgagor delivers possession or expressly or by implication binds himself to deliver possession of the mortgaged property to the mortgagee, and authorises him to retain such, possession until payment of the mortgage-money, and to receive the rents and profits accruing and to appropriate the same in lieu of interest, or in payment of the mortgage-money, or partly in lieu of interest or partly in payment of the mortgage-money;

(53) "varam" means an arrangement for the cultivation of nilam with paddy and sharing the produce, made between the owner or other person in lawful possession of the nilam and the person who undertakes cultivation under such arrangement, and includes the arrangements known as pathivaram, pankuvaram and pankupattam; and "varamdar" means the person who undertakes cultivation under a varam arrangement;

(54) "verumpattamdar" means a lessee or sub-lessee of immovable property, whether called verumpattamdar, or venpattamdar, who has expressly or impliedly contracted to hold the same, under a lease with or without security for rent, but does not include a kanamdar, kanam-kuzhikanamdar, or kuzhikanamdar.

**CHAPTER II**  
**PROVISION REGARDING TENANCIES**

**Exemptions.**

3. Nothing in this chapter shall apply to-

(i) leases of lands or of buildings or of both, belonging to or vested in the Government of the Union territory of Pondicherry, the Government of India, the Government of any State in India, a local authority, or a Corporation owned or controlled by any of the said Governments or authority; or

(ii) leases only of buildings, including a house, shop or warehouse, and the site thereof, with the land, if any, appurtenant thereto.

**Explanation.-** Permission given to a kudikidappukaran to occupy a hut shall not be deemed to be a lease of building for the purposes of this clause; or

(iii) leases of land or of buildings or of both specifically granted for industrial or commercial purposes; or

(iv) tenancies of land or of buildings or of both created by the Administrator-General or the Official Trustee or an Official Receiver or officer appointed by a court under the provisions of any law, or by the court of wards, or by any person holding under or deriving title from any of the officers or the court aforesaid:

Provided that the provisions of this clause shall not apply to-

(a) a tenancy created in favor of a person who was a tenant on the date on which the land or building or both came under the control of any of the said officers or the court of wards; or

(b) a tenancy renewed in favor of any such person:

Provided further that the provisions of this clause shall cease to apply to any tenancy created by the court of wards, where the landlord on whose behalf the tenancy was created does not terminate the tenancy by registered notice within a period of six months from the date on which the property was released from the superintendence of the court of wards; or

(v) tenancies in respect of land or of buildings or of both created by mortgagees in possession or by persons deriving title from such mortgagees; or

(vi) tenancies in respect of land or of buildings or of both created by persons having only life interest or other limited interest in the land or in the buildings or in both:

Provided that the provisions of sections 8 to 32 relating to fixity of tenure shall apply to tenancies falling under clauses (v) and (vi) so long as the mortgage, or, as the case may be, the life interest or other limited interest subsists.

**Explanation.-** For the purposes, of clause (vi), a sthani or trustee or owner of any temple, mosque, church or other place of public religious worship or of any other public religious or charitable institution or endowment shall not be deemed to be a person having only life interest or other limited interest in ownership; or

(vii) tenancies in respect of sites, tanks and premises of any temple, mosque or church (including sites on which religious ceremonies are conducted) and sites of office buildings and other buildings attached to such temple, mosque or church; created by the owner, trustee or manager of such temple, mosque or church:

Provided that nothing in this clause shall affect the rights to which a tenant was immediately before the commencement of this Act under the contract of tenancy or under any law then in force; or

(viii) lands transferred for felling trees; or

(ix) any transaction relating only to the usufruct of trees or to the tapping of coconut or other palm trees or to the tapping of rubber trees.

#### **Certain persons occupying land as tenants to be deemed tenants.**

4. Notwithstanding anything to the contrary contained in any law, or in any contract, custom or usage, or in any judgement' decree or order of court,-

(i) any person who, on the 28th April, 1962, was continuously in occupation of the land of another for not less than two years, honestly believing himself to be a tenant and continued to be in occupation of such land at the commencement of this Act, shall be deemed to be a tenant;

(ii) where on or after the 28th April, 1962, a tenant holding land less in extent than the ceiling area, had executed a deed surrendering his leasehold right to the landlord, but had not actually transferred possession of the land to the landlord before the commencement of this Act, such deed shall be deemed to be invalid and such person shall be deemed to be a tenant.

#### **Certain persons who were cultivating land on varam arrangements to be deemed tenants.**

5. Notwithstanding anything to the contrary contained in any law, or in any contract, custom or usage, or in any judgement decree or order of court, any person who, by virtue of the provisions of the Mahe stay of Eviction proceedings Order, 1962 (published with the notification No.G.S.R. 615, dated 28-4-1962) of the Government of India in the Ministry of External Affairs was entitled to cultivate any nilam after the 28th April, 1962 and was cultivating the nilam at the commencement of this Act shall be deemed to be a tenant, notwithstanding the expiry of the term fixed under the varam arrangement.

#### **Certain mortgages to be deemed tenants.**

6. Notwithstanding anything to the contrary contained in any law or in any contract, custom or usage, or in any judgement, decree or order of court,-

(i) a mortgagee with possession of immovable property shall be deemed to be a tenant, if-

(a) the property comprised in the mortgage was waste land at the time of the mortgage;

(b) the mortgage money was less than forty per cent of the market value of the land at the time of the mortgage;

(c) he was by himself or through any member of his family or tarwad holding the property comprised in the mortgage for a period of not less than thirty years before the commencement of this Act; or

(d) he or any member of his family or tarwad effected substantial improvements on the property comprised in the mortgage.

**Explanation I.-** For the purposes of this clause, a land shall be deemed to be waste land notwithstanding the existence thereon of scattered trees.

**Explanation II.-** The mortgage money or any portion thereof, may, at the option of the mortgagor, be treated as security for rent and he shall return the mortgage money or any portion thereof which he does not elect to treat as security for rent to the tenant within six months from the commencement of this Act.

(ii) a mortgagee with possession of immovable property shall be deemed to be a tenant, if-

(a) the property comprised in the mortgage consists of agricultural land;

(b) he was by himself or through any member of his family or tarwad holding the property comprised in the mortgage as a tenant on or after the 1st July, 1958; and

(c) the tenancy was terminated after the 1st July, 1958, and before the commencement of this Act, but he continued in possession of the property, without interruption, by himself or through any member of his family or tarwad, as a mortgagee with possession, from the date of such termination till the commencement of this Act.

**Explanation.-** In any case to which this clause applies, the mortgage money or any portion thereof may, at the option of the mortgagor, be treated as security for rent and he shall return the mortgage money or the portion thereof which he does not elect to treat as security for rent to the tenant within six months from the commencement of this Act.

#### **Right to prove real nature of transaction.**

7. (1) Notwithstanding anything in the Indian Evidence Act, 1872, (Central Act 1 of 1872) or in any other law for the time being in force any person interested in any land may prove that a transaction purporting to be a mortgage, otti, karpayanam, panayam or nerpanayam or license of that land is in substance a transaction by way of kanam, kanamkuzhikanam, kuzhikanam, verumpattam or other lease, under which the transferee is entitled to fixity of tenure in accordance with the provisions of section 8 and to the other rights of a tenant under this Act.

(2) where under sub-section (1), the court or the Land Tribunal holds that the transferee is entitled to fixity of tenure in accordance with the provisions of section 8, it shall be lawful for the court or the Tribunal to pass a decree or order containing directions regarding the application of the sum, if any, advanced to the landlord and making other suitable alterations in the terms recorded in the instrument executed by the parties.

(3) Notwithstanding anything in the Indian Evidence Act, 1872, (Central Act 1 of 1872) or in any other law for the time being in force a person described as an agent or servant in a document evidencing the contract for the cultivation of any nilam may prove that he is a licensee.

#### **Right of tenants to fixity of tenure.**

8. (1) Notwithstanding anything to the contrary contained in any law, custom, usage or contract, or in any decree or order of court, every tenant shall have fixity of tenure in respect of his holding, and no land from the holding shall be resumed except as provided in section 9 to 17.

(2) Nothing in sub-section (1) shall confer fixity of tenure on a tenant holding under a landlord-

(i) who is a member of the Armed Forces or is a seaman, if the tenancy was created by such landlord within a period of three months before he became a member of the Armed Forces or a seaman or while he was serving as such member or seaman; or

(ii) who is the legal representative of the landlord referred to in clause (i) :

Provided that no such landlord shall resume any land from his tenant, if he is already in possession of an extent of land not less than the ceiling area; and where he is in possession of an extent of land less than the ceiling area, the extent of land that may be resumed shall not, together with the land in his possession, exceed the ceiling area:

Provided further that such tenant shall be deemed to have fixity of tenure in respect of his holding if-

(a) the landlord referred to in clause (i) has not claimed resumption of the land comprised in the holding within one year from the date on which he ceased to be a member of the Armed Forces or a seaman, or within one year from the commencement of this Act, or within one year from the expiry of the period of tenancy, whichever period expires last;

(b) the landlord referred to in clause (ii) has not claimed resumption of the land comprised in the holding within one year from the date on which he received intimation of the death of the member of the Armed Forces or seaman, or within one year from the commencement of this Act, or within one year from the expiry of the period of tenancy, whichever period expires last :

Provided also that the provisions of this sub-section shall not apply to tenants who were entitled to fixity of tenure immediately before the 28th April, 1962, under any law then in force.

#### **Resumption for extension of places of public religious worship.**

9. A trustee or owner of a place of public religious worship may resume from a tenant the whole or any portion of his holding when the same is needed for the purpose of extending the place of public religious worship and the Collector certifies that the same is so needed.

#### **Resumption for construction of residential buildings.**

10. A landlord (other than a sthani or the trustee or owner of a place of public religious worship) who is not in possession of any land or is in possession of land less than five standard acres and who needs the holding for the purpose of constructing a building *bona fide* for his own residence or for that of any member of his family may resume from his tenant-

(i) an extent of land not exceeding twenty cents, where resumption is sought on behalf of one person; and

(ii) an extent of land not exceeding fifty cents, where resumption is sought on behalf of two or more persons.

Provided that, by such resumption, the total extent of land in the possession of the landlord shall not be raised above five standard acres and the total extent of land in the possession of the tenant shall not be reduced below twenty cents :

Provided further that no landlord shall be entitled to resume under this section any land in the possession of a tenant who is a member of any Scheduled Caste.

**Explanation.-** For the purposes of this section and section 11, "member of family" shall mean,-

(i) in the case of a landlord who has granted a lease on behalf of a joint family, member of such family ; and

(ii) in any other case, wife or husband, as the case may be, or a lineal descendent of the landlord.

### **Resumption for personal cultivation from tenant holding more than ceiling area.**

11. A landlord (other than a sthani or the trustee or owner of a place of public religious worship) who requires the holding *bona fide* for cultivation by himself, or any member of his family, may resume from his tenant, who is in possession of land exceeding the ceiling area, the whole or a portion of the holding, subject to the condition that, by such resumption, the total extent of land in the possession of the landlord is not raised above the ceiling area and the total extent of land in the possession of the cultivating tenant is not reduced below the ceiling area.

**Explanation.-** In this section, references to the ceiling area in relation to the landlord or the tenant shall, where such landlord or tenant is a member of a family, be constructed as references to the ceiling area in relation to that family.

### **Resumption by small holder.**

12. Without prejudice to the right of resumption under section 11, a small holder (other than a sthani or the trustee or owner of a place of public religious worship) may resume from his tenant a portion of the holding not exceeding one-half :

Provided that, by such resumption, the total extent of land in the possession of the small holder shall not be raised above four standard acres or four acres in extent, whichever is greater and that in the possession of the tenant shall not be reduced below twenty cents :

Provided further that except as provided in sub-sections (2) and (3) of section 61, no land shall be resumed under this section from a tenant who was entitled to fixity of tenure in respect of his holding immediately before the 28th April, 1962, under any law then in force.

### **Cases where resumption permissible.**

13. (1) Notwithstanding anything contained in section 12, in respect of tenancies subsisting at the commencement of this Act, no person shall have the right to resume, under section 12, any land which is subject to such tenancy unless such person is, at such commencement,-

- (i) a minor,
- (ii) a person of unsound mind,
- (iii) a member of the Armed Forces or a seaman, or
- (iv) a legal representative of such member or seaman.

(2) An application for resumption under section 11 or 12 shall be made,-

- (a) by a minor, within one year from the date on which he attains majority;
- (b) by a person of unsound mind, within one year from the date on which he ceases to be of unsound mind;
- (c) by a member of the Armed Forces or seaman, within one year after he ceases to be a such member or seaman;
- (d) by the legal representative of member of the Armed, Forces or seaman within one year after the member or seaman ceases to be such member or seaman, or within one year from the date on which intimation of his death is received, whichever period expires later;

(e) by any other person entitled to resume land under section 11, within one year from the commencement of the Act, and by any such person entitled to resume land as provided under subsections (2) and (3) of section 61, within one year from the date of agreement referred to in subsection (2) of section 61.

(3). The right of resumption in respect of a holding shall be exercised only once, and the order of the Land Tribunal allowing resumption shall be given effect to only at the end of an agricultural year.

(4) The provisions relating to resumption shall not apply to any land which is a kudiyruppu.

### **Priority for Resumption**

14. Where in respect of any holding there are more landlords than one, the landlords mentioned below and in their order of priority shall be entitled to resumption:-

(a) small holder;

(b) any person, other than small holder, entitled to fixity of tenure in respect of the holding immediately before the 28<sup>th</sup> April, 1962, under any law then in force;

(c) kanamdar not falling under item (a) or item (b);

(d) landowner, not being a small holder :

Provided that where there are more landlords than one falling under the same category, the landlord nearer the cultivating tenant shall have preferential right over the landlord more remote.

### **Procedure for Resumption**

15. (1) A landlord desiring to resume any land shall apply to the Land Tribunal for an order of resumption. The application shall be in such form and shall contain such particulars as may be prescribed.

(2). The Land Tribunal shall duly enquire into the application and pass appropriate orders thereon, and where the order allows resumption, it shall specify the extent and location of the land allowed to be resumed, the rent payable in respect of the portion, if any, that would be left after resumption and such other particulars as may be prescribed and directing the landlord to make, within such time and such manner as may be prescribed, payments to extinguish the rights of the cultivating tenant and the intermediaries, if any, who would be affected by such resumption.

(3) The Land Tribunal may, for sufficient reasons, extend the time prescribed under subsection (2) for making payments by the landlord.

(4) In deciding the location of the portion of the holding allowed to be resumed, the Land Tribunal shall have regard to the nature, fertility and other conditions of the portion of the land which may be allowed to be resumed and the portion left with the cultivating tenant.

(5) Where the application is made under section 11 for resumption from a tenant who is in possession of land exceeding the ceiling area and there are other landlords under whom the tenant holds, the Land Tribunal shall give notice of the application to all other landlords entitled to claim resumption under section 13 on the date of such application, so far as known to it, specifying a date within which they may apply for resumption of any land from such tenant. The Land Tribunal shall consider all applications from landlords for resumption from such tenant received within the specified time together, and, where the extent of land in the possession of the tenant in excess of the ceiling area is less than the aggregate of the extent of land applied to be resumed by the landlords, the Land Tribunal shall allow resumption by all the landlords equitably having regard to all circumstances.

(6) Where any land is resumed after making the payments as directed by the Land Tribunal all the rights of the cultivating tenant and the intermediaries, if any, holding between the landlord resuming the land and the cultivating tenant in respect of the land, shall stand extinguished.

(7) An order for resumption may be executed through the court as if the order were a decree passed by it.

(8) Where a landlord fails to deposit the amounts in accordance with the directions of the Land Tribunal, the order of resumption shall be treated as cancelled and the landlord shall have no further right for resumption.

#### **Tenants from whom land is resumed to be paid compensation for improvements, and solatium.**

16. (1) A tenant from whom land is resumed under the provisions of this Act shall be entitled to-

- (i) compensation for the improvements belonging to him; and
- (ii) a solatium of an amount equal to one year's rent.

(2) The compensation payable under clause (i) of sub-section (1) shall be determined in accordance with the provisions of sections 17 to 28 of this Act.

#### **Tenant may remove buildings, works or trees not deemed improvements.**

17. Whenever a court passes a decree or order for eviction against a tenant and such tenant has erected any buildings, constructed any work or planted any tree which the court finds it not an improvement for which compensation can be claimed, but which the court finds can be removed without substantial injury to the holdings, such tenant may remove such building, work or tree within a time to be fixed by the court in its decree or order.

#### **Improvement producing an increase in the value of the annual net produce.**

18. (1) When the improvement is not an improvement to which section 22 applies and has caused an increase in the value of the annual net produce of the holding, the court shall determine, as nearly as may be, the average net money value of such increase and shall award as compensation for the improvement three-fourths of the amount arrived at by the capitalising such net money value at twenty times.

**Explanation 1.-** The value of the net produce means the amount remaining after deducting from the value of the gross produce the cost of cultivation and the Government assessment and local taxes.

**Explanation 2.-** In determining the net money value of the increase, regard shall also be had to the condition of the improvement and probable duration of its effects and the labour and capital required for making such improvement.

(2) Nothing in sub-section (1) shall apply to improvements of the nature of embankment, reclamation and other similar works.

### **Trees or plants spontaneously grown.**

19. When the improvement is not an improvement to which sub-section (1) of section 18 applies, but consists of timber trees or of other useful trees or plants spontaneously grown during the period of the tenancy or sown or planted by any of the persons mentioned in section 16, the compensation to be awarded shall be three-fourths of the sum which the trees or plants might reasonably be expected to realise if sold by public auction to be cut and carried away.

### **Other kinds of improvements.**

20. When the improvement is not an improvement to which sub-section of section 18 or section 19 applies, the compensation to be awarded shall be cost of the labour including supervision thereof and of the materials together with other expenditure if any, which would at the time of the valuation, be required to make the improvement, less a reasonable deduction on account of the deterioration, if any, which may have taken place from age or other cause.

### **Value of improvement to be ascertained in the way most favourable to the tenant.**

21. Notwithstanding anything contained in section 18 or 19 or 20, the amount of compensation to be awarded for an improvement shall be ascertained in the way prescribed by any of the said sections which is most favourable to the tenant.

#### **ILLUSTRATIONS :-**

(a) The compensation to be awarded for a jack tree as a fruit tree is ascertained under section 18 to be Rs. 7 , but for the same tree as a timber tree it is ascertained under section 19 to be Rs. 10.

(b) The compensation to be awarded for an immature casuarina plantation is ascertained under section 19 to be Rs. 20 but under section 20 to be Rs. 100.  
In each case, the court shall award the higher amount.

### **Improvement consisting in protection and maintenance of trees and plants.**

22. When the improvement consists in the protection and maintenance of timber or fruit trees or of other useful trees or plants not sown or planted by any of the persons mentioned in section 16, or of such trees or plants spontaneously grown prior to the commencement of the tenancy, the compensation to be awarded shall be the proper cost of such protection and maintenance ascertained as provided in section 20.

### **Power to frame tables of maximum and minimum rates of compensation.**

23. The Government may prepare tables showing the maximum and minimum rates of compensation to be awarded under this Act, for all or any class of improvements and when such tables have been published, the amount awarded as compensation under section 18 or 19 or 20 or 21 shall not ordinarily exceed such maximum rates nor shall it in any case be less than such minimum rates.

### **Power to prepare tables of prices of produce, etc.**

24. (1) For the purpose of determining the amount of compensation to be awarded under this

Act, the Government may prepare tables showing all or any of the following matters, namely :-

(a) the price of coconuts, arecanuts, cashewnuts, mangoes, pepper and paddy ;

(b) the cost of-

(i) cultivating and harvesting a crop of paddy ;

(ii) planting, protecting and maintaining a coconut tree, an arecanut tree, a jack tree, a cashewnut tree, a mango tree, such other tree as may be notified by the Government from time to time and a pepper vine, until the tree or vine is in bearing ;

(iii) protecting and maintaining a coconut tree, an arecanut tree, a jack tree, a cashewnut tree, a mango tree, such other tree as may be notified by the Government from time to time and a pepper vine for one year when in bearing ;

(2) The tables prepared under this section shall, on publication, be receivable in evidence and the rates and amounts therein specified shall be presumed to be the proper rates, and amounts until the contrary is proved :

Provided that, in so far as such tables prescribe prices of products, the presumption shall not be rebuttable except by proof of the average price as provided in section 25.

#### **Values how ascertained when no table has been prepared or the presumption is rebutted.**

25. In respect of any product for which no table showing the price has been published and whenever the presumption under section 24 as to the price is sought to be rebutted, the court shall adopt as the money value for the purpose of awarding compensation under sub-section (1) of section 18, the average price in Mahe, as nearly as may be ascertainable, for a period of 10 years immediately preceding the institution of the suit.

#### **Tables to be published.**

26. (1) The tables prepared under this Act shall be published in English and Malayalam in the Official Gazette and shall be kept publicly posted in the civil court in Mahe.

(2) The Government may, by like publication, cancel or vary, from time to time, the tables so published.

#### **Compensation when area is overplanted.**

27. When trees are planted in excess of the following scale, the court, if satisfied that, in the circumstances of the particular case, the land is overplanted, may, notwithstanding anything herein before contained, either refuse to grant any compensation or may grant compensation at a lower rate, for so many of the trees as are in excess of the scale and are immature :-

Coconut trees ... 100 per acre.

Arecanut trees ... 720 per acre.

Jack trees ... 60 per acre.

**Explanation:** In the case of a mixed garden, each tree shall be allowed a proportionate fraction of an acre according to the above scale.

### **Contracts affecting tenant's right to make improvements.**

28. Nothing in any contract entered into whether before or after the commencement of this Act shall take away or limit the right of a tenant to make improvements and to claim compensation for them in accordance with the provisions of this Act.

### **Tenant's right to sue for restoration of possession of land.**

29. (1) In any case in which any land has been resumed on the ground specified in section 9 or section 10 or section 11 or section 12, if, within three years of such resumption, the person who resumed the land fails without reasonable excuse to use the land for the purpose for which it was resumed, the cultivating tenant shall, subject to the provisions of section 30 be entitled to apply to the Land Tribunal for the restoration to him of the possession of the land or a portion of the land which was resumed and to hold it with all rights and subject to all the liabilities of a cultivating tenant :

Provided that a cultivating tenant shall not be entitled to restoration under this sub-section if he is in Possession of land equal to or exceeding the ceiling area, nor shall a cultivating tenant be entitled to restoration or an extent of land which together with the extent of land in his possession will exceed the ceiling area.

(2) The provisions of section 15 shall, mutatis mutandis be applicable to the form and procedure in regard to the application for restoration and the manner of execution of the orders of restoration.

### **Limitation for application for restoration under section 29.**

30. An application for restoration under section 29 shall be made within one year from the expiry of three years after the resumption.

### **Effect of an order of restoration.**

31. (1) Where restoration of any land resumed is ordered under section 29, the cultivating tenant shall hold the land directly under the landlord from whom restoration has been ordered, and the rights of the intermediaries extinguished under sub-section (6) of section 15 shall not revive.

(2) On such restoration, the cultivating tenant shall pay to the person who resumed the land-

(i) the amounts paid by such person to the cultivating tenant and to the intermediary, if any towards the value of the improvements effected by them and existing at the time of restoration ;

(ii) the value of the improvements, if any, effected *bona fide* by such person between the date of resumption and the date of the application ; and

(iii) any amount other than solatium received by the cultivating tenant from such person on account of the resumption.

(3) The rent payable by the cultivating tenant after the restoration of the holding shall be the fair rent.

### **Recovery of arrears of rent by summary procedure.**

32. (1) The Land Tribunal shall be competent to dispose of application for recovery of arrears of rent, where the amount of such arrears does not exceed five hundred rupees.

(2) Any landlord may apply to the Land Tribunal for recovery of arrears of rent in such form as may be prescribed.

(3) In disposing of the application, the Land Tribunal shall follow such procedure as may be prescribed.

(4) The order of the Land Tribunal under this section may be executed through the court as if it were a decree passed by it.

### **Fair rent.**

33. The fair rent in respect of a holding shall be the rent payable by the cultivating tenant to his landlord and it shall be rent calculated at the rates specified in Schedule II applicable to the class of lands comprised in the holding or the contract rent, whichever is less.

**Explanation** Where the fair rent in respect of a holding has been determined under any law in force immediately before the commencement of this Act, the fair rent so determined shall be deemed to be the contract rent for the purposes of this section.

### **Exclusion of certain lands from liability to fair rent.**

34. Notwithstanding anything contained in section 33, where any land included in a holding is set apart for communal purposes, and is used for such purposes, the extent of the land so set apart shall not be taken into account when determining the fair rent of the holding in accordance with that section.

### **Preparation of record of rights and bar of proceedings under Chapter XII of the Code of Criminal Procedure.**

35. (1) Any cultivating tenant may, at any time within four years from the commencement of this Act or such further period as the Government may, from time to time by notification in the Official Gazette, specify in this behalf, apply to the Land Tribunal for the preparation of a record of rights in respect of his holding; and the Land Tribunal shall admit such application if it is *prima facie* satisfied that the application has been made *bona fide*.

(2) Notwithstanding anything contained in sub-section (1), the Government may, suo motu, direct the Land Tribunal for the preparation of a record of rights in respect of any holding.

(3) Where an application for the preparation of a record of rights is admitted or when directed by the Government to prepare such record, the Land Tribunal shall direct such officer as the Collector may, by general order, specify in this behalf, to prepare record of rights in respect of the holding.

(4) The record of rights shall be prepared in such manner as may be prescribed, after giving an opportunity to the landlord and all other interested persons to be heard and such record of rights shall contain -

(a) the description and extent of the holding ;

(b) the name and address of the owner ;

(c) the nature of the applicant's interest in the holding ;

(d) the names and addresses of the intermediaries in respect of the holding and the nature of the interest of each of such intermediaries ; and

(e) such other particulars as may be prescribed.

(5) The officer specified under sub-section (3) shall for the purposes of proceedings under this section, have all the powers of a civil court while trying a suit under the law for the time being in force relating to civil procedure in respect of the following matters, namely :-

(a) summoning and enforcing the attendance of any person and examining him on oath ;

(b) requiring the discovery and production of any document ;

(c) receiving evidence on affidavit; and

(d) issuing commissions for the examination of witnesses or for local investigation.

(6) The record of rights prepared under this section shall be admissible in evidence before any court or tribunal.

(7) Where an application for the preparation of a record of rights in respect of a holding is admitted, no application under section 37 for the determination of fair rent in respect of that holding shall be disposed of till the record of rights is prepared under this section.

(8) Where a person claiming to be a varamdar applies to the Land Tribunal for the preparation of a record of rights or for determination of fair rent in respect of the nilam cultivated by him, then notwithstanding anything contained in any other law, no Magistrate shall have jurisdiction under Chapter XII of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898) in respect of a dispute between that person and the owner of the nilam, relating to that nilam, pending preparation of the record of rights or the determination of the fair rent.

#### **Rent payable by an intermediary.**

36. Where in respect of a holding there is an intermediary at the commencement of this Act and as a result of the determination of the fair rent, there has been a reduction or increase in the rent payable by the cultivating tenant, the rent payable by the intermediary to his landlord shall be reduced or increased in the same proportion as the rent to which he was entitled was reduced or increased.

#### **Determination of fair rent by Land Tribunal.**

37. (1) The cultivating tenant or any landlord may apply in such form as may be prescribed, to the Land Tribunal for determining the fair rent in respect of a holding.

(2) On receipt of an application under sub-section (1), the Land Tribunal shall issue notices to all persons interested and after enquiry determine by an order-

(i) the fair rent in respect of the holding ;

(ii) if there is an intermediary or intermediaries, the rent payable by such intermediary or intermediaries to his landlord or to their respective landlords.

(iii) the installments, if any, in which the rent shall be payable ; and

(iv) the date or dates on which the said rent or instalment shall be payable.

(3) In determining the fair rent under sub-section (2) the Land Tribunal may take into account the statistics published under section 50.

**Bar of suits for eviction, etc., pending application for determination of fair rent.**

38. During the pendency of an application for determination of fair rent before a Land Tribunal, no court shall entertain any suit for eviction of the applicant from the holding to which the application relates, or pass any order or injunction prohibiting him from entering the holding or pass any order staying the proceedings before the Land Tribunal.

**Agreements as to fair rent.**

39. Notwithstanding anything contained in the foregoing sections, it shall be competent for the landlord and the tenant to agree as to what shall be the fair rent payable in respect of the holding and, where such an agreement signed by the landlord and the tenant, is filed with the Land Tribunal, the Tribunal shall pass orders determining such agreed rent as the fair rent in respect of the holding :

Provided that the agreed rent shall not exceed the fair rent under section 33, in respect of the holding :

Provided further that where there are intermediaries or other persons having an interest in the holding, the landowner, the cultivating tenant and all the intermediaries and other persons interested shall be parties to such an agreement :

Provided also that this section shall not apply to a case where the landlord is a religious, charitable or educational institution of a public nature.

**Refund of payments in certain cases where fair rent is fixed.**

40. Any order determining the fair rent under section 37 or section 39, and the rent payable by an intermediary consequent on such determination, shall take effect from the beginning of the agricultural year immediately following the commencement of this Act, and any amount paid by the tenant before such determination, which is in excess of the fair rent that may be payable to the landlord in accordance with the provisions of section 37, shall be adjusted towards the payment of future rent or the purchase price payable under section 63, as the case may be, and where the amount of rent paid to the landlord is less than the rent so determined, the balance payable by the tenant shall be paid at the time of or before the payment of the rent that first accrues after such determination or at such time in such manner as the Land Tribunal may specify.

**Rent payable when Land Tribunal has not determined fair rent.**

41. (1) Where in case the rent payable in respect of a holding has not been determined by the Land Tribunal, either under section 37 or section 39, the landlord shall be entitled to receive and the tenant shall be bound to pay the rent that was payable immediately before the commencement of this Act.

(2) The provisions contained in sub-section (1) shall be without prejudice to the provisions contained in section 40.

**Explanation.-** For the purposes of this section "the rent that was payable immediately before the commencement of this Act", in the case of a varamdar, shall mean the average of the share of the landlord in the produce for the three years immediately preceding such commencement, or where the varamdar was not cultivating the land continuously for the said period of three years, the share of the landlord for the year in which the varamdar cultivated the land last, immediately before such commencement.

### **Mode of payment of rent.**

42. (1) Where the rent is payable in kind, it shall be paid either in kind or in money at the option of the tenant.

(2) Where the rent payable is the rent determined under section 37 calculated at the rates specified in Schedule II or the agreed rent determined under section 39 and such rent is payable in kind, the money value of such rent shall be computed with reference to the rates published in the Official Gazette under section 49 for the date on which the rent is payable and, if no rate is published for that date, at the rate for the nearest previous date for which the rate is so published :

Provided that where in respect of any commodity the price has not been published in the Official Gazette, the money value of such commodity shall be calculated at the market rate prevailing on the date on which the rent became due.

(3) The tenant shall be entitled to send by money order the rent payable by him to his landlord.

### **Liability for assessment**

43. (1) As between the tenant and the landlord, the former shall be liable for any cess or special charges leviable by the Government for special or additional crops raised, where such special or additional crops have not been taken into account in fixing the fair rent.

(2) A tenant making any payment to the Government or any local authority towards land revenue or any tax in respect of the land comprised in the holding and payable by the landlord, shall be entitled to deduct the same from the rent payable by him to the landlord :

Provided that no suchs deduction shall be made if the rent payable by the tenant to the landlord is equal to or less than the land revenue or other tax so payable.

### **Remission of rent.**

44. (1) Where there has been a damage to, or a failure of crops owing to causes beyond the control of the tenant in any holding the tenant shall be entitled to a remission of the rent payable by him in proportion to the extent of such damage or failure.

(2) The Collector or any other officer authorised by the Government, by notification in the Official Gazette, in this behalf shall, on an application to him by the tenant, determine after such enquiry as may be prescribed the extent of damage to, or failure of, crops under sub-section (1) and order such remission of rent as appears to him just and proper, and the decision of the Collector or such other officer shall be final and the tenant shall be entitled to get the benefit of the remission so ordered.

(3) If, in any proceeding under sub-section (2), any question arises as to whether a person is or is not a tenant, it shall be competent for the Collector or the officer authorised by the Government under sub-section (2) to decide the question, subject to the orders of any competent civil court.

(4) Where, in respect of a holding, there is an intermediary and the rent to which the intermediary is entitled is reduced as a result of the remission granted under sub-section (2), the rent payable by the intermediary to his landlord shall be reduced in the same proportion.

**Explanation.-** For the purposes of this section, the term "crops" shall include cereal as well as cash crops.

### **Abatement or reduction of rent.**

45. (1) The fair rent determined under this Act shall not be liable to alteration or revision except on the application made by the cultivating tenant to the Land Tribunal on the grounds specified in sub-sections (2) and (3).

(2) Where a portion of the land comprised in the holding is acquired under any law for the time being in force for the compulsory acquisition of land for public purposes, the tenant shall be entitled to an abatement in the rent in the same proportion as the yield from the portion acquired bears to the yield from the entire holding.

(3) Where any material part of the holding is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let by fire or flood or any other act of God, the rent payable shall be proportionately reduced.

(4) Where in respect of a holding, there is an intermediary and the rent to which the intermediary is entitled is reduced as a result of the abatement in the rent granted under sub-section (2) or reduction of rent granted under sub-section (3), the rent payable by the intermediary to his landlord shall be reduced in the same proportion.

### **Invalidity of claims of dues other than rent payable.**

46. Notwithstanding any contract to the contrary, express or implied, no tenant shall be liable to pay to his landlord any customary dues or renewal fees or anything more or anything else than the rent payable under this Act.

### **Arrears of rent to bear interest.**

47. Arrears of rent shall bear interest at the rate of six per cent per annum or at the contract rate, whichever is less.

### **Priority of claim for arrears of rent.**

48. Arrears of rent due to the landlord, together with interest thereon, shall be a charge on the interest of the tenant, from whom they are due, in the holding and shall, subject to the priority of the rights of the Government and any local authority for arrears of land revenue, tax, cess or other dues, be a first charge on such interest of the tenant.

### **Publication of prices of commodities.**

49. The Collector shall cause to be published every quarter, in such manner as may be prescribed, prices prevailing in Mahe of paddy, coconut, arecanut, pepper, groundnut, tapioca, cashewnut and any other crop which may be specified by the Government, by notification in the official Gazette, for the Purpose.

Provided that, before publishing such prices, the Collector shall cause notice to be given to the public, in such manner as he thinks fit, of the prices proposed to be published and consider objections, if any, received within two weeks from the date of the notice.

### **Publication of statistics relating to gross produce of lands.**

50. The Government shall cause to be published statistics of gross produce of different crops for different classes of land for different areas.

### **Tenant's right to obtain receipt.**

51. (1) Every tenant paying any rent shall be entitled to receive and the landlord shall be bound to grant a receipt containing such particulars as may be prescribed.

(2) If any landlord fails to grant a receipt as provided under sub-section (1), the tenant shall be entitled to send by money order after deducting the charges for doing so, -

- (i) the money, if the rent is payable in money ; and
- (ii) the money value of the rent, if it is payable in kind.

### **Application to Land Tribunal when landlord refuses to accept a tender.**

52. (1) If the landlord refuses to accept a tender of the rent or if the tenant is doubtful as to the person entitled to receive the same and no suit has been brought against the tenant or application made for recovery of the said dues, the tenant may apply to the Land Tribunal in the prescribed manner for permission to pay the same through the Land Tribunal.

(2) Along with the application under sub-section (1), the tenant shall deposit with the Land Tribunal, the said dues together with interest, if any, accrued thereon.

### **Procedure on application under section 52.**

53. (1) When an application and deposit have been made under section 52, the Land Tribunal shall cause return notice thereof to be given at the cost of the applicant to every person, who in the opinion of the Land Tribunal, is entitled to be heard thereon and, after hearing such of them as appear, order the payment of the amount to the person entitled or bound to receive it and make directions regarding any interest, costs and such other matters as the Land Tribunal may deem fit.

(2) Nothing in sub-section (1) shall affect the right of any person to recover the said amount by suit from the person to whom it is paid, but the order allowing the application under section 52 shall be deemed a full acquittance to the tenant in respect of the amount covered by it.

### **Apportionment of rent on severance of interest of landlord or tenant.**

54. (1) Where, by act of parties or by operation of law, the interest of the landlord or of the tenant in the land demised has been severed or a portion of the land demised has been sub-leased, the landlord or the tenant may apply to the Land Tribunal for the apportionment of the rent and the security for rent, if any.

(2) The application shall be in such form as may be prescribed.

(3) The Land Tribunal shall, after giving an opportunity to all persons interested to be heard, pass an order on such application apportioning the rent and the security for rent if any, and directing the execution of a lease deed on the basis of such apportionment within a specified period and make such order as to the costs of the application as it may deem fit.

(4) If, within the time fixed by the Land Tribunal, such deed is not executed, The Land Tribunal shall, on the application of the person in whose favour such deed is to be executed and on the deposit by such person of such amount as the Land Tribunal may direct, execute the deed on behalf of the person in default; and the Land Tribunal shall by order, direct that the cost of the execution of the deed may be realised by the applicant from the person in default.

(5) The order of the Land Tribunal under sub-section (3) or sub-section (4) regarding costs may be executed through the court as if it were a decree passed by it.

#### **Notice to landlord and intermediary when the interest in the holding of the tenant is acquired.**

55. (1) Any person deriving an interest in the holding or part of the holding of a tenant by virtue of a title acquired by act of parties or by operation of law shall, where such interest is acquired after the commencement of this Act within sixty days from the date of such acquisition, give registered notice of his interest in the holding or part of the holding to the landlord and the intermediaries, if any. The said notice shall contain particulars of the property, its extent, the nature of the interest acquired and the date of acquisition of such interest.

(2) Where default is made by tenant in the payment of rent, his landlord shall give registered notice of the default to the persons who have acquired interest in the holding or part of the holding prior to the date of such default and who have notified the existence of their interest under sub-section (1). The persons having interest in the holding shall be bound to receive such payment :

Provided that a person who has acquired interest only in a part of the holding shall be bound to pay only so much of the rent or arrears of the same, as will on apportionment fall on such portion of the holding.

(3) Where there has been no agreement among the persons interested as to the apportionment referred to in the proviso to sub-section (2), the person who has acquired interest in the part of the holding may, within sixty days from the date of service of the notice of default, apply to the Land Tribunal for the Apportionment, and the Land Tribunal shall, by order, make the apportionment.

(4) The order of the Land Tribunal under sub-section (3) may be executed through the court as if it were a decree passed by it.

#### **Rights of tenant to be heritable and alienable.**

56. Subject to the provisions of this Act, all rights which a tenant has in his holding shall be heritable and alienable.

#### **Surrender by tenant.**

57. (1) Notwithstanding anything contained in this Act, a tenant may terminate the tenancy in respect of any land held by him at any time by surrender of his interest therein :

Provided that no such surrender shall be made in favour of any person other than the Government :

Provided further that such surrender shall not be effective unless it is made in writing and is admitted by the tenant before the Land Tribunal and is registered in the office of the Land Tribunal in the prescribed manner.

(2) The Government shall pay to the landlord fair rent of the tenancy surrendered to it under sub-section (1).

(3) The Government may, let any land surrendered to it under sub-section (1) to any person, in accordance with such rules as may be made under this Act.

(4) The tenant to whom any land is let under sub-section (3) shall pay the fair rent thereof

directly to the landlord and the Government's liability under sub-section (2) with regard to the payment of the rent of that land shall, on and from the date of induction of the tenant on such land, cease.

#### **Abandonment by a tenant.**

58. (1) No landlord shall enter on any land which has been abandoned by a tenant.

(2) If a tenant abandons his tenancy and ceases to cultivate his holding either by himself or by some other persons, the landlord of such tenancy shall, within thirty days of such abandonment, inform the Government in writing that the tenant has abandoned such tenancy and the Government shall, on receipt of such intimation, forthwith take possession of the land appertaining to such tenancy.

(3) The Government shall pay to the landlord fair rent for the land possessed by it under sub-section (2) from the date on which it takes possession of such land.

(4) The Government may let to another tenant any land, possession of which has been taken under sub-section (2), in accordance with such rules as may be made under this Act.

(5) The tenant to whom any land is let under sub-section (4) shall pay the fair rent thereof directly to the landlord and the Government's liability under sub-section (3) with regard to the payment of the fair rent for such land shall, on and from the date of induction of the tenant on the land, cease.

#### **Landlord not to enter on surrendered or abandoned land.**

59. If any landlord enters into the possession of any abandoned land or any land which has been surrendered in accordance with the provisions of section 57, he shall be deemed to have contravened the provisions of section 89 of this Act and shall be punished accordingly.

#### **Rights as to timber trees.**

60. (1) Notwithstanding any law, custom or contract to the contrary all timber trees planted by the cultivating tenant or his predecessor-in-interest or spontaneously sprouting and growing in the holding after the commencement of the tenancy in favour of the cultivating tenant or his predecessor-in-interest shall belong to the cultivating tenant.

(2) Subject to the provisions of sub-sections (3) to (5) in the case of timber trees standing in the holding of a cultivating tenant at the commencement of his tenancy, the cultivating tenant and if he does not require, the landowner or the intermediary, as the case may be, shall have the right to cut and remove such trees, provided that the right conferred by this sub-section shall be exercisable by the intermediary only in case such timber trees were either planted by him or had spontaneously sprouted and grown during the period in which he was in possession of the holding.

(3) Where the cultivating tenant exercises his right under sub-section (2) he shall be liable to pay to the landowner or the intermediary, as the case may be one-half of the market value of the timber trees so cut and removed.

(4) Where the landowner or the intermediary exercises his right under sub-section (2) he shall be liable to pay to the cultivating tenant one-half of the market value of the timber trees so cut and removed.

(5) The right conferred by sub-section (2) shall not be exercisable unless reasonable notice thereof in writing is given to the party to be affected by the exercise of the said right.

(6) If any dispute arises as to the rights of the landowner, intermediary and cultivating tenant over timber trees, the Land Tribunal shall, on the application of the landowner, intermediary or cultivating tenant, by order, decide the question after hearing all the persons interested.

### **Cultivating tenant's right to purchase landlord's rights.**

61. (1) Subject to the provisions of sub-section (2), a cultivating tenant (including the tenant of a kudiyiruppu), entitled to fixity of tenure under section 8, shall be entitled to purchase the right, title and interest of the landowner and the intermediaries, if any, in respect of the land comprised in his holding :

Provided that, -

(i) if the landlord is entitled to resume any portion of the holding under this Act and he applies for such resumption, the cultivating tenant shall be entitled to purchase the right, title and interest of the landowner and the intermediaries only in respect of the remaining portion of the holding.

(ii) no cultivating tenant shall be entitled to purchase the right, title and interest in respect of any land under this section if he, or if he is a member of a family, such family, owns an extent of land not less than the ceiling area ;

(iii) where the cultivating tenant or, if he is a member of a family, such family, does not own any land or owns an extent of land which is less than the ceiling area, he shall be entitled to purchase the right, title and interest in respect of only such extent of land as will together with the land, if any, owned by him or his family, as the case may be, be equal to the ceiling area.

**Explanation.-** In calculating the extent of land owned by the cultivating tenant or, where he is a member of a family, for the purposes of clause (ii) or clause (iii), of the proviso to this sub-section, the portion of the land owned by such cultivating or by the family, which is liable to be purchased by the cultivating tenant holding under such tenant or family, shall not be taken into account.

(2) Notwithstanding anything contained in sub-section (1), where the landowner or an intermediary is a small holder, the cultivating tenant shall not be entitled to purchase the right, title and interest of the landowner and the intermediaries, unless the cultivating tenant agrees in writing that the small holder may exercise the right of resumption in respect of the holding under section 12.

(3) where a cultivating tenant agrees under sub-section (2) that the small holder may exercise the right of resumption,-

(i) the small holder shall, notwithstanding anything contained in the second proviso to section 12 or sub-section (1) of section 13, be entitled to exercise the right of resumption under section 12 to the same extent and in the same manner as if the cultivating tenant was not entitled to fixity of tenure immediately before the 28th April, 1962, and as if the small holder was a person entitled to resume land under sub-section (1) of section 13 ; - and

(ii) the cultivating tenant shall be entitled to purchase the right, title and interest of the landowner and the intermediaries in respect of the remaining part of the holding left after resumption.

### **Application for purchase of landlord's rights by cultivating tenants.**

62. (1) A cultivating tenant entitled to purchase the right, title and interest of the landowner and the intermediaries under section 61 may apply to the Land Tribunal for the purchase of such right, title and interest.

(2) The application for the purchase under sub-section (1), shall be in such form and shall contain such particulars as may be prescribed.

(3) The application from a cultivating tenant referred to in sub-section (2) of section 61 shall be accompanied by a statement agreeing to the exercise of the right of resumption by the small holder.

(4) where a cultivating tenant is entitled to purchase the right title and interest in respect of only a portion of the land held by him, he may indicate in the application, his choice of the portion, the right, title and interest over which he desires to purchase.

### **Purchase price**

63. The price payable by the cultivating tenant for the purchase of the right, title and interest of the landowner and the intermediaries, if any shall be the aggregate of -

(i) sixteen times the fair rent in respect of the holding or part thereof to which the purchase relates ;

(ii) the value of structures, wells and embankments of a permanent nature belonging to the landowner or the intermediaries, if any ; and

(iii) one-half of the value of timber trees belonging to the landowner or the intermediaries, if any.

**Explanation.-** For the purposes of this section, where the rent is payable in kind, the money value of the rent shall be computed at the average of the prices of the commodity for the six years immediately preceding the year of determination of the purchase price, and, in calculating the average of the prices, the prices, if any, published under section 49 may also be taken into account.

### **Purchase price to be distributed among landowner and intermediaries.**

64. (1) Where the right, title and interest of the landowner and the intermediaries in respect of a holding have been purchased by the cultivating tenant, the purchase price paid by the cultivating tenant shall be paid to the landowner or apportioned among the landowner and the intermediaries, as the case may be, in accordance with the provisions of sub-sections (2) and (3).

(2) Where there is no intermediary, the landowner shall be entitled to the entire purchase price paid by the cultivating tenant.

(3) Where there is an intermediary or there are intermediaries, -

(i) the amount of sixteen times the fair rent paid by the cultivating tenant shall be apportioned among the landowner and the intermediary or the intermediaries in proportion to the profits derived by them from the holding ; and

(ii) the value of structures, wells and embankments of a permanent nature and half the value of the timber trees paid by the cultivating tenant shall be payable to the landowner or the intermediaries to whom such structures, wells, embankments and timber trees belong.

**Explanation.-** "Profits derived from the holding" shall, for the purposes of this sub-section, mean, in the case of the landowner, the rent to which he is entitled and, in the case of an intermediary, the difference between the rent due to him from his tenant and the rent for which the intermediary is liable to his landlord.

### **Procedure before Land Tribunal.**

65. (1) As soon as may be after the receipt of the application under section 62, the Land

Tribunal shall give notice to the landowner the intermediaries and all other persons interested in the holding, to prefer claims or objections with regard to the application. The Land Tribunal shall also by notice inform the landowner or the intermediary is entitled to resumption, and has not already applied for such resumption, that he may apply for resumption.

(2) The Land Tribunal shall, after considering the claims and objections received and hearing any person appearing in pursuance of the notice issued under sub-section (1) and after making due enquires pass orders -

(i) on the application, if any, whether pending before it or filed in pursuance of the notice under sub-section (1) from the landowner or intermediary for resumption in accordance with the provisions of section 15 ; and

(ii) on the application for purchase under section 62.

(3) Where the cultivating tenant is entitled to purchase only a portion of the land left after resumption, the Land Tribunal shall, as far as possible, allow the purchase of the portion indicated in the application under sub-section (4) of section 62.

(4) An order under clause (ii) of sub-section (2) allowing the application shall specify -

(i) the purchase price payable by the cultivating tenant ;

(ii) the amount due to the landowner and each of the intermediaries, if any, on the apportionment of the purchase price paid by the cultivating tenant ;

(iii) the value of encumbrances subsisting or claims for maintenance or alimony charged on the right, title and interest of the landowner and the intermediaries, if any ;

(iv) the amounts payable to the holder of the encumbrance or the person entitled to the maintenance or alimony ; and

(v) the amount payable to the landowner and each of the intermediaries after deducting the value of the encumbrance or the claims for maintenance or alimony.

(5) If the landowner or intermediary is liable to pay any amount to the cultivating tenant under this Act, the Land Tribunal shall, in passing orders on the application for purchase, set off such amount against the purchase price payable to the landowner or the intermediary.

(6) The Land Tribunal shall, as soon as may be, forward a copy of the orders under sub-section (2) to the Land Board.

#### **Purchase price payable in installments or in lump.**

66. The purchase price determined under section 65 shall be payable in sixteen equal annual installments.

Provided that where the purchase price is less than Rs. 160 the number of installments shall be so fixed by the Land Tribunal that the amount payable in each instalment shall not be less than Rs. 10 :

Provided further that it shall be open to the cultivating tenant to pay the entire purchase price in a lump, in which case the amount payable shall be only seventy-five- per cent of the purchase price.

### **Deposit of purchase price and issue of certificate of purchase.**

67. (1) Where an application under section 62 has been allowed and the purchase price determined under section 65 by the Land Tribunal, the cultivating tenant shall deposit with the Land Tribunal to the credit of the Land Board, -

(i) where the purchase price is proposed to be paid in a lump, the entire amount due within one year ; or

(ii) where the purchase price is proposed to be paid in installments, the first instalment thereof within the three months from the date on which the period prescribed for preferring appeal from the orders of the Land Tribunal has expired or, where there was an appeal, from the date on which the appeal was disposed of.

(2) On the deposit of the purchase price in a lump or of the first instalment of such price, the Land Board shall issue a certificate of purchase to the cultivating tenant and thereupon the right, title and interest of the landowner and the intermediaries, if any, shall vest in the cultivating tenant free from all encumbrance with effect from the date of such deposit. The certificate of purchase shall be conclusive proof of the purchase by the tenant of the right, title and interest of the landowner and intermediary, if any, over the holding or portion thereof.

(3) Where a cultivating tenant fails to deposit the purchase price in lump or the first instalment thereof on or before the due date, the order of the Land Tribunal under section 65 shall stand cancelled and the cultivating tenant shall continue as cultivating tenant.

(4) Where the purchase price is paid in installments, the second and subsequent installments shall be deposited in the Government treasury in the prescribed manner to the credit of the Land Board.

### **Purchase price to bear interest.**

68. (1) The purchase price payable shall bear interest at the rate of 4½ per cent per annum from the date on which the right, title and interest of the landowner and the intermediaries vested in the cultivating tenant.

(2) Where the purchase price is paid in installments, the second and subsequent installments shall be deposited together with interest on the amount outstanding on the date of deposit.

### **Cultivating tenant to pay rent pending purchase.**

69. Notwithstanding the filing of an application under section 62, a cultivating tenant shall be liable to pay rent to his landlord until he makes the deposit under sub-section (1) of section 67.

### **Recovery of installments of purchase price on default.**

70. For the purchase price payable by the cultivating tenant, there shall be a first charge on the land to which the purchase relates, subject to the charges for any dues payable to the Government. Where the second or any subsequent instalment is not deposited on the due date the Land Board may, on application from any person entitled to the instalment of the purchase price in default or any part thereof, pass an order directing the payment of the amount ; and the order of the Land Board may be executed through the court as if it were a decree passed by it ;

Provided that where the right, title and interest of the landowner or intermediary which is a religious, charitable or educational institution of a public nature have vested in the Government under section 74, the instalment of the purchase price in default or any part thereof due to the

Government shall be recoverable as an arrear of land revenue under the provisions of the law for the time being in force relating to the recovery of land revenue.

**Payment of purchase price, amount of encumbrance, maintenance or alimony.**

71. (1) The purchase price payable to the landowner and the intermediaries shall be distributed by the Land Board according to the provisions of sub-sections (2) to (9).

(2) Where the right, title and interest of the landowner or the intermediaries are not subject to any encumbrance or charge for maintenance or alimony, the purchase price paid by the cultivating tenant shall be paid to the landowner or apportioned among the landowner and the intermediaries in the manner specified in sub-section (2) or sub-section (3), as the case may be, of section 64.

(3) Where the right, title and interest of the landowner or the intermediaries in the holding are subject to any encumbrance or charge for maintenance or alimony the value of such encumbrance, maintenance or alimony shall be deducted from the purchase price payable to the landowner or the intermediary, as the case may be, and the balance amount shall be paid to the landowner or apportioned among the landowner and the intermediaries in the manner specified in sub-section (2) or sub-section (3), as the case may be, of section 64. If the total amount of such encumbrance, maintenance or alimony is equal to or more than the amount of the purchase price payable to the landowner or the intermediary, the whole amount shall be reserved for payment to the holder of the encumbrance, or the person entitled to the maintenance or alimony and no amount shall be paid to the landowner or the intermediary, as the case may be.

(4) Where the right, title and interest of the landowner or the intermediary vested in the cultivating tenant form part of the security for any encumbrance or charge for maintenance or alimony, the Land Tribunal shall, for the purpose of discharging the same, apportion the entire encumbrance or the charge for the maintenance or alimony between the portion of the land, the right, title and interest over which vested in the tenant and the portion remaining after such vesting, in proportion to the values of the two portions of the property, and discharge only the liability pertaining to the portion to which the purchase relates.

(5) Where any amount has been deducted or reserved for payment to the holders of the encumbrance or the persons entitled to the maintenance or alimony, the same shall be paid in their order of priority to the persons entitled thereto.

(6) Where the cultivating tenant pays the purchase price in installments, the amount of each instalment shall be distributed in the manner specified above. The interest on the purchase price paid by the cultivating tenant shall also be paid to the landowner intermediary, holder of the encumbrance or the person entitled to the maintenance or alimony, as the case may be.

(7) Where a person entitled to the purchase price or the value of the encumbrance, maintenance or alimony dies before it is paid to him, it shall be paid to his legal representatives.

(8) Where the person entitled to receive the purchase price or the value of encumbrance is a private trust or endowment or a minor or a person suffering from legal disability or a limited owner, the purchase price or the value of encumbrance may, notwithstanding anything contained in any law, but subject to any general directions that the Government may give, be deposited for and on behalf of the person with such authority or bank as may be prescribed.

(9) Where before any court or authority any suit or proceeding is pending which directly or indirectly affects or is likely to affect the right of any person to receive the whole or part of the purchase price or the amount of encumbrance or maintenance or alimony payable under this Act, the court or authority may require the Land Board to place at its disposal the amount so payable and thereupon the same shall be disposed of in accordance with the orders of the court or authority.

**Payment of purchase price to the landowner, or  
intermediary to be full discharge.**

72. The payment of purchase price or the value of encumbrance, maintenance or alimony to the landowner or intermediary or other persons entitled thereto in the manner specified in section 71 shall be a full discharge of the liability for payment of purchase price to the landowner and the intermediaries, and no further claims for payment of purchase price shall lie.

**Special provisions relating to religious, charitable and  
educational institutions of a public nature.**

73. (1) Notwithstanding anything contained in sections 61 to 72, where, in respect of a holding, the landowner or the intermediary is a religious or educational institution of a public nature, such institution may choose -

(i) whether the right, title and interest of the institution in respect of the holding may be permitted to be purchased from the institution by the cultivating tenant on payment of the purchase price ;  
or

(ii) whether such right, title and interest should be vested in the Government in consideration of the payment of an annuity in perpetuity by the Government :

Provided that the choice of the institution under this sub-section shall be the same in respect of all lands held by tenants under it.

(2) The annuity payable to the institution in consideration of the vesting in the Government of its right, title and interest in respect of a holding shall be a sum equal to the annual rent which the institution was entitled to receive immediately before the commencement of this Act, after deducting 21/2 per cent thereof by way of collection charges :

Provided that where, in respect of a holding held by a tenant referred to in section 4, section 5 or section 6, there was no stipulation for payment of any rent immediately before the commencement of this Act, the annuity shall be an amount equal to 4½ per cent of sixteen times the fair rent in respect of the holding determined under section 37.

**Explanation.-** Where the rent payable to an institution is in kind, the annuity payable shall be commuted into money of the average of the prices of the commodity for six years immediately preceding the year in which the annuity is determined.

**Procedure for vesting of rights of religious, charitable or educational institutions  
in Government and determination of annuity.**

74. (1) A religious, charitable or educational institution of a public nature may apply to the Government to vest its right, title and interest in respect of all lands held by tenants under it, in the Government and for the payment of the annuity.

(2) The application shall be in such form as may be prescribed.

(3) On receipt of such application, the Government shall direct the Land Tribunal to determine the annuity payable to the institution.

(4) The Land Tribunal shall thereupon determine, after due enquiry, the annuity payable to the institution in respect of all lands held by tenants under it.

(5) As soon as may be after determination of the annuity, the Government shall issue a notification in the Official Gazette declaring that the right, title and the interest of the institution in respect of all lands held by tenants under it shall vest in the Government with effect from a date to be

specified in the notification and all such right, title and interest shall accordingly vest in the Government free from all encumbrances.

#### **Payment of annuity.**

75. The Government shall pay the annuity payable to the institution every year in perpetuity on such date or dates and in such manner as may be prescribed.

Provided that where the right, title and interest of the institution are subject to any encumbrance, -

(i) the value of the encumbrance shall be paid to the holder of the encumbrance ; and

(ii) five per cent of the value of the encumbrance shall be deducted from the annuity and the balance, if any, alone shall be paid to the institution :

Provided further that where the value of the encumbrance is more than twenty times the annuity, -

(i) if there is only one encumbrance, twenty times the annuity shall be paid to the holder of the encumbrance ; and

(ii) if there are more than one encumbrance, twenty times the value of the encumbrances shall be paid to the holders thereof in their order of priority, and no amount by way of annuity shall be payable to the institution.

#### **Vesting of the rights of religious, charitable or educational institutions in the Government not to operate as bar to the purchase of landlord's rights by cultivating tenant.**

76. The filing of an application by a religious, charitable or educational institution of a public nature under sub-section (1) of section 74 or the vesting of the right, title and interest of the institution in the Government under sub-section (5) of the said section shall not affect the right of the cultivating tenant to purchase such right, title and interest in accordance with the provisions of sections 61 to 72.

#### **Choice for annuity where cultivating tenant applies for purchase.**

77. Where a religious, charitable or educational institution of a public nature receives under section 65 notice of an application by a cultivating tenant for the purchase of the right, title and interest of the institution, the institution may file a statement with the Land Tribunal specifying its choice that the right, title and interest of the institution in respect of all lands held by tenants under it may be vested in the Government and the institution be paid the annuity to which it is entitled under section 73. On receipt of the statement, the Land Tribunal shall forward a copy of the same to the Government together with the application received from the cultivating tenant for the purchase of the right, title and interest of the landowner and intermediaries. Thereupon, the provisions of sections 73 to 75 shall apply as if the statement were an application under section 74 ; and orders on the application of the cultivating tenant shall be passed only after the right, title and interest of the institution are vested in the Government.

#### **Purchase of right, title and interest of institutions.**

78. Where, on receipt of a notice under section 65, the institution does not file a statement of its choice as provided in section 77, the institution shall be deemed to have chosen to permit the cultivating tenant to purchase its right, title and interest and the provisions of sections 61 to 72 shall apply to the purchase of the right, title and interest of the landowner and the intermediaries, the payment of purchase price and the discharge of liabilities.

### **Tenant holding under the institution to continue as tenant under the Government.**

79. (1) Where a cultivating tenant does not apply for the purchase of the right, title and interest vested in the Government under section 74, the tenant holding directly under the religious, charitable or educational institution of a public nature shall continue as tenant under the Government.

(2) The rent payable by such tenant to the Government shall, on default, be recoverable as an arrear of land revenue under the provisions of law for the time being in force relating to the recovery of land revenue.

### **Vesting of landlord's rights in tenants.**

80. (1) At any time after the commencement of this Act, the Government may, by notification in the Official Gazette, declare that the right, title and interest of the landowners and intermediaries in respect of holdings, which have not been purchased by cultivating tenant, shall vest in the cultivating tenant free from all encumbrances :

Provided that no declaration under this sub-section shall apply to a holding where the landowner or an intermediary is a small-holder.

(2) Upon the issue of a notification under sub-section (1), the right, title and interest of the landowners and intermediaries in respect of holdings to which the declaration applies shall vest in the cultivating tenants of such holdings free from all encumbrances, and the provisions of sections 63 to 72 shall, as far as may be, apply in regard to the purchase price payable by the cultivating tenants, the distribution of the purchase price among the landowners and the intermediaries, the payment of recovery of purchase price and the discharge of encumbrances, as if the cultivating tenants had applied for the purchase of the right, title and interest of the landowners and intermediaries :

Provided that where in respect of a holding the landowner or intermediary is a religious, charitable or educational institution of a public nature and such institution and before the issue of such notification, expressed its choice for annuity instead of purchase price, the Government shall pay to such institution the annuity that would have been payable to the institution under section 75 if its right, title and interest had vested in the Government, and the Government shall be entitled to the purchase price that would have been payable to the institution.

### **Discharge of arrears of rent.**

81. (1) Notwithstanding anything to the contrary contained in any law for the time being in force or in any contract, or in any decree or order of court, all arrears of rent accrued due from a tenant during the period and outstanding on the date specified in column (2) of the Table below, shall be deemed to be fully discharged by payment to the landlord, or deposit in court for payment to the landlord, of the amount referred to in the corresponding entry in column (3) of the said Table, together with interest at the rate of six per cent per annum, within the period specified in column (4) thereof :

**TABLE**

| Sl. No. | Periods during which the arrears accrued due and the dates on which they were outstanding                 | Amount of the rent to be paid for discharge  | Period within which the payment is to be made.      |
|---------|---|--|---|
| (1)     | (2)   | (3)  | (4)   |
| (i)     | All arrears outstanding on 1st July, 1958.  | Fifty per cent of such arrears provided that the amount payable shall not be less than an amount equal to one year's rent or the actual amount in arrears, which ever is less, and shall not be more than an amount equal to three year's rent.      | 3 months from the date of commencement of this Act. |
| (ii)    | Arrears of rent accrued due on or after 1st July, 1958 and outstanding on 28th April, 1962                | Seventy-five per cent of such arrears, provided that the amount payable shall not be less than an amount equal to one year's rent or the actual amount in arrears, whichever is less, and shall not be more than an amount equal to two year's rent. | 3 months from the date of commencement of this Act. |
| (iii)   | Arrears of rent accrued due on or after 28th April, 1962 and outstanding at the commencement of this Act. | Seventy-five percent of the contract rent or, where fair rent has been fixed under any law in force immediately before the date of commencement of this Act, such fair rent.   | 6 months from the date of commencement of this Act. |

Provided that where an intermediary has collected rent in excess of the amount payable under this sub-section for any period and has not paid the same to his landlord, he shall be liable to pay such excess also to his landlord.

**Explanation.-** For the purpose of this sub-section, arrears of rent due from a varamdar shall be calculated on the basis of the average of the share of the landlord in the produce for the three years immediately preceding the commencement of this Act or, where a varamdar was not cultivating the land continuously for the said period of three years, the share of the landlord for the year in which the varamdar cultivated the land last immediately before the commencement of this Act.

(2) Where a tenant has paid or deposited before the commencement of this Act, any amount towards the arrears of rent referred to in item (i) or (ii) or (iii) of the Table in sub-section (1), such amount shall be deducted from the amount to be paid or deposited under that item, and it shall be sufficient, if the tenant pays or deposits the balance, if any, after such deduction, and where the amount so paid or deposited, exceeds the amount to be paid or deposited under sub-section (1) for the discharge of the arrears, the excess shall be adjusted towards the rent accrued due thereafter.

(3) Notice of any deposit made under sub-section (1) shall be given to the landlord by the court, and cost of the notice shall be paid by the tenant so depositing the rent, and the landlord shall be at liberty, to withdraw such amount under the orders of the court.

(4) Where the rent is payable in kind, the amount to be paid or deposited under sub-section (1) shall be computed at the market rate of the commodity prevailing on the date on which the rent became payable under the contract of tenancy or under any law or under any custom or usage.

(5) Where any amount deposited under sub-section (1) is found to be less than the amount to be deposited under that sub-section computed in the manner specified in sub-section (4) due to *bona fide* error in the computation, the court may allow the person who has deposited the amount, reasonable time for depositing the balance amount, and where the balance amount is deposited within the time so allowed, the person who has so deposited shall be deemed to have deposited the amount within the time allowed under sub-section (1).

(6) Where a tenant fails to make the payment or deposit as required under item (i) or (ii) or (iii) of the Table in sub-section (1) within the period specified thereof, the tenant shall forfeit the benefits conferred by that sub-section in so far as it relates to the arrears of rent specified in that item, and he shall be liable to pay the entire arrears lawfully recoverable for the period to which such arrears relate.

(7) The assignment by a landlord of his right to receive arrears of rent to any other person shall not affect the rights of the tenant under this section for this discharge of arrears of rent.

#### **Prohibition of future tenancies.**

82. (1) After the commencement of this Act, no tenancy shall be created in respect of any land

:

Provided that any landowner who is-

- (i) a minor,
- (ii) a widow,
- (iii) an unmarried woman,
- (iv) a divorced woman,
- (v) a person incapable of cultivating land by reason of any physical or mental disability, or
- (vi) a serving member of the Armed Forces or a seaman, may create a temporary tenancy by an agreement in writing, and no such tenant shall be entitled to any right conferred on a tenant under this chapter.

(2) Any tenancy created in contravention of the provisions of sub-section (1) shall be invalid.

#### **Kudikidappukaran to have fixity.**

83. (1) No kudikidappukaran shall be liable to be evicted from his kudikidappu except on the following grounds, namely :-

- (i) that he has alienated his right of kudikidappu to a person other than-
  - (a) member of his family, or
  - (b) a person who has no other homestead or any land exceeding three cents in extent, either as owner or as tenant in possession, on which he could erect a homestead,
- (ii) that he has rented or leased out his kudikidappu to another person,

(iii) that he has ceased to reside in the kudikidappu continuously for a period of two years, or

(iv) that he has another kudikidappu or has obtained ownership and possession of land which is fit for erecting a homestead.

**Explanation.-** For the purposes of this sub-section, a kudikidappukaran shall not be deemed to have ceased to reside in a kudikidappu, notwithstanding the fact that he was not actually residing therein if any of his near relatives who was residing with him in the kudikidappu for a continuous period of not less than one year continues to reside in the kudikidappu ; and in such a case the near relative who continues to reside in the kudikidappu shall be liable for the rent payable by the kudikidappukaran; and "near relative" shall mean husband or wife, children, grand-children, father, mother, brother or sister.

(2) Notwithstanding anything contained in sub-section (1), the person in possession of the land on which there is a homestead or hut (hereinafter in this sub-section referred to as the landholder) in the occupation of a kudikidappukaran may, if he *bona fide* requires the land-

(a) for building purposes for himself or any member of his family including major sons and daughters ; or

(b) for purposes in connection with a town planning scheme approved by the competent authority ; or

(c) for any industrial purpose, require the kudikidappukaran to shift to a new site belonging to him, subject to the following conditions, namely :-

(i) the landholder shall pay to the kudikidappukaran the price of the homestead, if any, erected by the kudikidappukaran ;

(ii) the new site shall be fit for erecting a homestead and shall be within a distance of one mile from the existing kudikidappu ;

(iii) the extent of the new site shall be the extent of the existing kudikidappu, subject to a minimum of three cents and a maximum of ten cents ;

(iv) the landholder shall transfer ownership and possession of the new site to the kudikidappukaran and shall pay to him the reasonable cost of shifting the kudikidappu to the new site.

(3) Where the conditions specified in sub-section (2) are complied with, the kudikidappukaran shall be bound to shift to the new site.

(4) Notwithstanding anything contained in sub-sections (1) to (3), where a person does not hold more than twenty-five cents of land and there is a hut in the occupation of a kudikidappukaran on such land he may, if he requires the land occupied by such hut, for constructing a building for his own residence, apply to the Government for the acquisition of land to which the kudikidappu may be shifted. In such application he shall offer to deposit, whenever called for, the cost of acquisition of land equal to the extent of the existing kudikidappu, subject to a minimum of three cents and a maximum of ten cents. An officer authorised by the Government in this behalf may, after collecting the cost of acquisition from the applicant, acquire the necessary land under the Land Acquisition Act, 1894 (Central Act 1 of 1894) give possession of the land to the kudikidappukaran and require him to shift to the said land. The kudikidappukaran shall thereupon be bound to shift to the new site. The kudikidappukaran shall be entitled before he so shifts to receive from the person in possession of the land on which his hut was originally located, the expenses as determined by such officer to be reasonably required to shift to the new site.

(5) Where the owner of the land in which there is a kudikidappu considers that the kudikidappu is so located as to cause inconvenience to him, he may require the kudikidappukaran to shift to another part of the land :

Provided that the site to which the kudikidappu is required to be shifted is fit for the location of the kudikidappu.

Provided further that the owner of the land shall transfer to the kudikidappukaran ownership and possession of the land equal to the extent of the existing kudikidappu, subject to a minimum of three cents and a maximum of ten cents and pay the price of the homestead if any erected by the kudikidappukaran and the cost of shifting the kudikidappu.

#### **Rent payable by kudikidappukaran.**

84. (1) All arrears of rent, if any, payable, by a kudikidappukaran on the date of the commencement of this Act, whether the same be payable under any law, custom or contract or under a decree or order of court, shall be deemed to be fully discharged if he pays one year's rent or the actual amount in arrears, whichever is less.

(2) On and after the commencement of this Act, notwithstanding any contract, decree or order of court, a kudikidappukaran shall not be required to pay more than six rupees yearly as rent in respect of his kudikidappu.

Provided that a kudikidappukaran who was not liable to pay any rent in respect of his kudikidappu immediately before the commencement of this Act shall not be liable to pay any rent ; nor shall a kudikidappukaran be liable to pay any rent in excess of that which he was paying before the commencement of this Act.

#### **Filing of suits against kudikidappukaran in certain cases.**

85. (1) If the kudikidappukaran does not comply with the requisition made by the person in possession of the land under sub-sections (2) and (3) of section 83 or by the owner under sub-section (5) of that section to shift to a new site, the person in possession of the land or the owner, as the case may be, may institute a suit against him for the purpose :

Provided that no such suit shall be instituted without giving the kudikidappukaran one month's notice by registered post.

(2) The court, on being satisfied that such person has complied with all the conditions mentioned in sub-sections (2) and (3) or sub-section (5) of section 83, may pass a decree for shifting the kudikidappu.

#### **Right of kudikidappukaran to be heritable but not alienable.**

86. The rights of a kudikidappukaran in his kudikidappu shall be heritable, but not alienable except as provided in this Act.

#### **Right of kudikidappukaran to maintain, repair, etc., homestead or hut.**

87. The kudikidappukaran shall have the right to maintain, repair and reconstruct with the same or different materials, but without increasing the plinth area, the hut belonging to the person who permitted occupation by the kudikidappukaran, or the homestead at his own cost.

### **Register of kudikidappukars.**

88. (1) The Government shall cause a register of kudikidappukars to be prepared and maintained in each village.

(2) The register shall show -

- (a) the description of the land in which the kudikidappu is situate ;
- (b) the location of the kudikidappu and its extent ;
- (c) the name of the landowner and of the person in possession of the land in which the kudikidappu is situate ;
- (d) the name and address of the kudikidappukaran ; and
- (e) such other particulars as may be prescribed.

(3) The register shall be prepared and maintained by such officer and in such manner as may be prescribed.

(4) The prescribed officer shall, before the preparation of the register, publish a notice in the village inviting applications from kudikidappukars for registration, to be presented before such date as may be specified in the notice.

(5) On receipt of an application within the time specified in the notice or within such further time as may be allowed by him the prescribed officer shall, after enquiry and after giving an opportunity to the landowner or other person in possession of the land to be heard, register the kudikidappukaran or reject the application.

(6) Notwithstanding anything contained in sub-section (4) or sub-section (5), the Land Board, if it is satisfied that all the kudikidappukars in a village have not applied for registration within the time specified under sub-section (4) or allowed under sub-section (5), may, at any time, direct the prescribed officer to invite applications for registration and thereupon the prescribed officer shall take action under sub-sections (4) and (5).

(7) Any gazetted officer authorised by the Government in this behalf may, either of his own motion or on an application by any person aggrieved by the registration of a kudikidappukaran under sub-section (5) or the rejection of an application under that sub-section, call for the record of any proceeding which has been taken by the prescribed officer under this section and may make such enquiry or cause such enquiry to be made and may pass such orders thereon; as he thinks fit :

Provided that no order prejudicial to any person shall be passed without giving him an opportunity of being heard.

(8) No order shall be passed under sub-section (7) after the expiry of a period of one year from the date of registration of the kudikidappukaran under sub-section (5) or the rejection of the application under that sub-section, as the case may be.

### **Prevention of eviction of scheduled castes.**

89. Notwithstanding anything to the contrary contained in this Act or in any other law or in any contract, custom or usage, or in any judgement, decree or order of court, no person shall evict or attempt to evict a cultivating tenant or holder of a kudiyruppu or kudikidappukaran, from his holding, kudiyruppu or kudikidappu if such tenant or holder is a member of any Scheduled Caste :

Provided that nothing in this section shall apply to -

(i) lands or buildings or both belonging to or vested in the Government of the Union territory of Pondicherry, the Government of India, the Government of any State in India, a local authority, or a Corporation owned or controlled by any of the said Government or authority ; or

(ii) Any lease of land or building or both granted by the Administrator-General, Official Trustee or Official Receiver.

### **Stay of suits or other proceedings for eviction.**

90. Where, in any suit or other proceeding for the eviction of a cultivating tenant, a holder of a kudiyiruppu or a kudikidappukaran, from his holding kudiyiruppu or kudikidappu, as the case may be, whether pending at the commencement of this Act or instituted after such commencement, the cultivating tenant, or the holder of a kudiyiruppu or the kudikidappukaran, makes a representation to the court in which such suit or other proceeding is pending or instituted that no record of rights in respect of the holding or register of kudikidappukars in respect of the village in which the kudikidappu is situate, as the case may be, has been prepared, the court shall not proceed with the suit or proceeding until the record of rights in respect of the holding or the register of kudikidappukars, as the case may be, is prepared and made available to it and the court shall also by order direct the officer specified under sub-section (3) of section 35, to prepare a record of rights in respect of the holding, or as the case may be, a register or kudikidappukars and to file the same in court, and such officer shall cause the same to be prepared in the manner prescribed.

## **CHAPTER III**

### **RESTRICTION ON OWNERSHIP AND POSSESSION OF LAND IN EXCESS OF CEILING AREA AND DISPOSAL OF EXCESS LANDS.**

#### **Exemptions.**

91. (1) The provisions of this Chapter shall not apply to -

(a) lands owned or vested in the Government of the Union territory of Pondicherry, the Government of India, the Government of any State in India, a local authority or any other authority which the Government may, in public interest, exempt, by notification in the Official Gazette, from the provisions of this Chapter.

(b) lands taken under the management of the court of wards :

Provided that the exemption under this clause cease to apply at the end of three years from the commencement of this Act.

(c) lands comprised in mills, factories or workshops and which are necessary for the use of such mills, factories or workshops ;

(d) cashew estates existing at the commencement of this Act and having a contiguous extent of ten acres or more.

**Explanation.-** For the purposes of this clause, "cashew estate" shall mean dry lands principally cultivated with cashewnut trees;

(e) pure pepper gardens and pure arecanut gardens existing at the commencement of this Act and having a contiguous extent of five acres or more.

**Explanation I.-** For the purposes of this clause, "pure pepper garden" shall mean a garden planted with not less than 300 pepper vines per acre and "pure arecanut garden" shall mean a garden planted with not less than 600 arecanut trees per acre.

**Explanation II.-** For the purposes of this clause, in calculating the number of pepper vines in a pure pepper garden, the vines, if any, trained on coconut trees or arecanut trees shall not be taken into account ;

(f) lands mortgaged to the Government, or to a co-operative society (including a co-operative land mortgage bank) registered or deemed to be registered under the Co-operative Societies Act for the time being in force, as security for any loan advanced by the Government or by such society ; so long as the mortgage subsists :

Provided that the exemption under this clause shall cease to apply at the end of three years from the commencement of this Act ;

(g) lands purchased by a Co-operative Land Mortgage Bank under the law for the time being in force relating to such Bank, so long as such lands continue in the possession of the Bank ;

(h) lands belonging to or held by an industrial or commercial undertaking at the commencement of this Act, and set apart for use for the industrial or commercial purpose of the undertaking :

Provided that the exemption under this clause shall cease to apply if such land is not actually used for the purpose for which it has been set apart, within such time as the Collector may, by notice to the undertaking, specify in that behalf ;

(i) house sites, that is to say, sites occupied by dwelling houses, tanks, wells or any other structures together with the land necessary for the convenient enjoyment of the same ;

(j) unculturable waste lands ;

(k) sites, of temples, churches, mosques and cemeteries and burial and burning grounds ;

(l) sites of buildings including warehouses ;

(m) commercial sites ;

(n) lands occupied by educational institutions including land necessary for the convenient use of the institutions and playgrounds attached to such institutions ;

(o) lands owned or held by -

(i) a University established by law ; or

(ii) a religious, charitable or educational institution of a public nature ; or

(iii) a public trust (which expression shall include a wakf) :

Provided that -

(i) the entire income of such lands is appropriated for the University, institution or trust concerned ; and

(ii) where the University, institution or trust comes to hold the said lands after the commencement of this Act, the Government have certified previously that such lands are *bona fide* required for the purposes of the University, institution or trust, as the case may be ; and

(p) lands granted to defence personnel for gallantry.

(2) The Government may exempt any land required by any person *bona fide* for any industrial or commercial purpose, the promotion of which will, in the opinion of the Government, be in the public interest :

Provided that such land shall be used for the purpose for which it is intended within such time as the Government may specify in that behalf ; and, where the land is not so used within the time specified, the exemption shall cease to be in force.

(3) The Government may, if they are satisfied that it is necessary to do so in public interest on account of any special use to which any land is put, or on account of any being *bona fide* required for the purpose of conversion into plantation or for starting dairy farms or cattle breeding farms, by notification in the Official Gazette, exempt such land from the provisions of this Chapter, subject to such restrictions and conditions as they may deem fit to impose.

### **Ceiling area.**

92. (1) The ceiling area of land shall be, -

(a) in the case of an adult unmarried person or a family consisting of not more than five members, twelve standard acres ; and

(b) in the case of a family consisting of more than five members, twelve standard acres increased by one standard acre for each member in excess of five, so however that the total extent of the ceiling area shall not exceed twenty standard acres :

Provided that the ceiling area shall, in no case, be -

(i) less than fifteen acres in extent ; or

(ii) more than thirty six acres in extent.

(2) For the purpose of this Chapter, all the lands owned or held individually by the members of a family or jointly by some or all of the members of such family shall be deemed to be owned or held by the family.

(3) In calculating the extent of land owned or held by a family or an adult unmarried person, the shares of the members of the family or the adult unmarried person, as the case may be, in the lands owned or held by a co-operative society or by an institution, or by a joint family, shall be taken into account.

**Explanation.-** For the purposes of this sub-section, the share of a member of a family or an adult unmarried person in the lands owned or held by a co-operative society or by an institution, or by a joint family, shall be deemed to be extent of land which would be allotted to such member or person had such lands been divided or partitioned, as the case may be, on the date notified under the sub-section (1) of section 93.

(4) Where, after the commencement of this Act, any class of land specified in Schedule I has been converted into any other class of land specified therein, the extent of land that may be owned or held by a family or adult unmarried person owning or holding such land at the time of the conversion shall be determined without taking into account such conversion.

(5) The lands owned or held by a private trust or a private institution shall be deemed to be lands owned or held by the person creating the trust or establishing the institution, or, if he is not alive, by his successors in interest.

(6) In computing the ceiling area, lands exempted under section 91 shall be excluded.

**Explanation I.-** For the purposes of this section, where a person has two or more legally wedded wives living, the husband, one of the wives named by him for the purpose and their unmarried minor children shall be deemed to be one family ; and the other wife or each of the other wives and her unmarried minor children shall be deemed to be a separate family.

**Explanation II.-** For the purposes of this section, an adult unmarried person shall include a divorced husband or divorced wife who has not remarried.

Provided that if such divorced husband or divorced wife is the guardian of any unmarried minor child, he or she together with such unmarried child shall be deemed to be a family.

**Families and adult unmarried person not to own or hold lands  
in excess of the ceiling area.**

93. (1) Subject to the provisions of sub-section (2), with effect from such date as may be notified by the Government in the Official Gazette, no family or adult unmarried person shall be entitled to own or hold or to possess under a mortgage lands in the aggregate in excess of the ceiling area.

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for any adult member in a family to own or hold land in excess of the ceiling area to the extent necessary to make up the ceiling area of his lineal descendants, other than his minor unmarried children, who are alive on the date notified under sub-section (1) and who would inherit his lands on his death :

Provided that the aforesaid adult member shall take into account all acquisitions of land or interests in land made by such lineal descendants or the members of their families for fixing the total extent that such adult member shall be entitled to own or hold, from time to time, and shall be bound to surrender the excess.

**Explanation I. -** In the case of lineal descendants who are members of other families, the ceiling area shall be that applicable to their families.

**Explanation II.-** For the purposes of this sub-section, "to hold land" shall include possessing land under a usufructuary mortgage.

**Certain voluntary transfers to be null and void.**

94. Notwithstanding anything contained in any law for the time being in force, all voluntary transfers effected after the date of publication of the Mahe Land Reforms Bill, 1968, in the Official Gazette, otherwise than -

(i) by way of partition ; or

(ii) on account of a natural love and affection ; or

(iii) in favour of a person who was a tenant of the holding before the date aforesaid and continued to be so till date of transfer ; or

(iv) in favour of a religious, charitable or educational institution of a public nature solely for the purpose of the institution.

by a family or any member thereof or by an adult unmarried person owning or holding land in excess of the ceiling area, shall be deemed to be transfers calculated to defeat the provisions of this Act and shall be invalid :

Provided that without prejudice to any other right of the parties to any such transfer, when any

purchase price is payable under section 64 or any compensation is payable under section 98 for any land covered by the said transfer, it shall be competent for the Land Tribunal to award to the transferee, out of the purchase price or compensation amount in respect of such land, such sum as the Land Tribunal may consider just and proper.

### **Surrender of excess lands.**

95. (1) Where a family or an adult unmarried person owns or holds land in excess of the ceiling area on that date notified under sub-section (1) of section 93, such excess land shall be surrendered by the person who is competent to do so within such time and to such authority as may be prescribed :

Provided that where any person *bona fide* believes that the ownership or possession of any land owned or held by him or by the members of his family is liable to be purchased by the cultivating tenant or to be resumed by the landowner or the intermediary under the provisions of this Act, the extent of the land so liable to be purchased or to be resumed shall not be taken into account in calculating the extent of the land to be surrendered under this sub-section.

**Explanation.-** Where any land owned or held by a family or adult unmarried person owning or holding land in excess of the ceiling area was transferred by such family or any member thereof or by such adult unmarried person, as the case may be, after 28th April, 1962, and on or before the date of publication of Mahe Land Reforms Bill, 1968, in the Official Gazette, otherwise than -

(i) by way of partition ; or

(ii) on account of a natural love and affection ; or

(iii) in favour of a person who was a tenant of the holding before the 28th April, 1962 and continued to be so till date of transfer ; or

(iv) in favour of a religious, charitable or educational institution of a public nature solely for the purpose of the institution, the extent of land owned or held by such family or adult unmarried person shall be calculated for purposes of fixing the extent of land to be surrendered under this section as if such transfer had not taken place, and such family or adult unmarried person shall be bound to surrender an extent of land which would be in excess of the ceiling area on such calculation, or, where such family or person does not own or hold such extent of land, the entire land owned or held by the family or person ; but nothing in this Explanation shall affect the rights of the transferee under the transfer.

(2) Where a family or an adult unmarried person owns or holds lands in excess of the ceiling area, the husband, or in his absence, the wife, or in the absence of both, the guardian of the minor children, or, as the case may be, the adult unmarried person, shall, within a period of three months from the date notified under sub-section (1) of section 93 file a statement before the Land Board intimating the location, extent and such other particulars as may be prescribed, of all the lands owned or held by the family or adult unmarried person, and indicating the lands proposed to be surrendered.

**Explanation I.-** Where lands owned or held by a family stand in the name of more than one member of the family, the identity of the land, the ownership or possession or both of which is or are to be surrendered, shall be indicated as far as practicable with the concurrence of all the members in whose names they stand.

**Explanation II.-** Where land to be surrendered is owned or held by two or more persons jointly, whether or not as members of an institution or of a joint family, the identity of the same shall be indicated as far as practicable with the concurrence of all the persons who own or hold such land.

**Explanation III.-** Where a family or adult unmarried person owns or holds lands, including shares in the lands owned or held by a co-operative society, in excess of the ceiling area, the excess

lands to be surrendered shall be lands other than shares in the lands owned or held by the co-operative society.

(3) Where -

(a) after the final settlement of claims for resumption of lands held by a family or an adult unmarried person as tenant, such family or person holds land in excess of the ceiling area, or

(b) after the purchase of the right, title and interest of the landowner and the intermediary by the cultivating tenant in respect of land owned by a family or adult unmarried person, such family or person owns land in excess of the ceiling area,

such excess shall be surrendered by the person who is competent to do so within a period of three months from the date of final settlement or purchase, as the case may be. At the time of the surrender, he shall file a statement before the Land Board containing the particulars specified in sub-section (2) of the lands held or owned by him. The provisions of sub-section (2) shall, as far as may be, apply in regard to the calculation of the excess land and the procedure for the surrender of the same.

(4) Where a member of a joint family surrenders under this section, any land belonging to the joint family and the surrender is accepted by the Land Board with or without modification in extent or identity of the lands surrendered, he shall be deemed to have become divided in status from the other members of the family, with effect from the date of the surrender and the lands, the surrender of which has been accepted shall be deemed to have been lands allocated to the share of such member on partition.

(5) On receipt of the statement under sub-section (2) or sub-section (3), the Land Board shall-

(a) cause the particulars mentioned in the statement to be verified ;

(b) ascertain whether the family or person to which or to whom the statement relates, owns or holds any other lands ; and

(c) by order determine the extent and identity of the land to be surrendered.

(6) In determining the identity of the land, the Land Board shall, as far as practicable, accept of the choice indicated under sub-section (2) or sub-section (3) :

Provided that where in such determination, the interest of other persons are also likely to be affected, the Land Board shall, except in cases where all the persons interested have agreed to the choice indicated, afford an opportunity to such other persons to be heard and pass suitable orders regarding the land to be surrendered.

(7) Where any person fails to file the statement specified under sub-section (2) or sub-section (3), the Land Board shall, after necessary enquiries, by order, determine the extent and other particulars of the land, the ownership or possession or both of which is or are to be surrendered :

Provided that before such determination the Land Board shall give an opportunity to the persons interested in the land, to be heard.

(8) Where the Land Board determines the extent of the land to be surrendered by any person without hearing any person interested, such person may, within sixty days from the date of such determination, apply to the Land Board to set aside the order and, if he satisfies the Land Board that he was prevented by any sufficient cause from appearing before the Land Board, it shall set aside the order and shall proceed under sub-section (5) or sub-section (7) as the case may be.

**Explanation.-** For the purposes of this section and section 96, "hold" with reference to land shall include "possess land under mortgage with possession".

### **Vesting of excess lands in Government.**

96. (1) On the determination of the extent and other particulars of the lands, the ownership or possession or both of which is or are to be surrendered under section 95, the Land Board shall issue a notice to the person bound to surrender demanding the surrender, before a specified date, not being earlier than thirty days from the date of the notice, of the lands or the ownership of lands to such authority as may be specified therein and intimating that in case of default the ownership or possession or both, as the case may be, of the lands determined by the Land Board shall be assumed by the Government before a specified date.

(2) On receipt of such notice, such person shall make the surrender demanded, in such manner as may be prescribed.

(3) Where any person fails to make the surrender demanded, the Land Board may authorise any officer to take possession or assume ownership of the land in such manner as may be prescribed.

(4) Upon the surrender under sub-section (2) or the assumption under sub-section (3), the land or the ownership or possession of the land shall, as the case may be, vest in the Government free from all encumbrances. Where the ownership of any such land is surrendered or assumed, the rights of the intermediary, if any, in respect of the land shall stand extinguished ; and where the possession of any such land is surrendered by, or assumed from, a cultivating tenant, the ownership of such land shall vest in the Government and the rights of the intermediary, if any, in respect of the land, shall stand extinguished.

### **Excess land obtained by gift etc., to be surrendered.**

97. (1) Where any person comes by any land after the date notified under sub-section (1) of section 93 on account of gift, purchase, mortgage with possession, lease, surrender or any other kind of transfer inter vivos or by bequest or inheritance or otherwise and in consequence thereof the total extent of land owned or held by the family of such person, or by such person, if he is an unmarried adult, exceeds the ceiling area, such excess shall be surrendered to such authority as may be prescribed within six months of the date of his coming into ownership or possession.

(2) The provisions of section 95 and 96 shall, as far as may be, apply to the surrender to, and vesting in the Government of the ownership or possession or both of lands under sub-section (1).

### **Persons surrendering land entitled to compensation.**

98. (1) Where ownership or possession or both of any land is surrendered by, or assumed from, a person or is vested in the Government under section 96 or section 97, such person shall be entitled to compensation. Where the rights of an intermediary are extinguished, such intermediary shall also be entitled to compensation.

(2) The compensation payable to an owner for the surrender or assumption of ownership and possession of land shall be fifty-five per cent of the market value of the land and improvements, if any, thereon.

(3) The compensation payable to the landowner, intermediary or cultivating tenant for the surrender, assumption, vesting in the Government or extinguishment of their rights shall be the portion of fifty-five per cent of the market value of the land and the improvements, if any, thereon that will fall to his share if such value were apportioned among the landowner, cultivating tenant and intermediary, if any, in respect of the land, according to the following provisions :-

(i) the portion of the compensation for any building or other improvements shall be set apart to the person to whom such buildings or other improvement belongs ;

(ii) ninety per cent of the portion of the compensation for the site of any homestead or hut in the occupation of a kudikidappukaran shall be deducted from the total amount of compensation.

(iii) the balance remaining after deducting the amounts referred to in clauses (i) and (ii) shall be apportioned among the landowner, the intermediaries and cultivating tenant in proportion to the profits derivable by them from the land immediately before the surrender, assumption or vesting in the Government, as the case may be.

**Explanation.-** "Profits derivable from the land" shall be deemed to be equal to (i) in the case of a landowner, the rent which he was entitled to get from the tenant holding immediately under him; (ii) in the case of an intermediary, the difference between the rent which he was entitled to get from his tenant and the rent for which he was liable to his landlord; and (iii) in the case of a cultivating tenant, the difference between the net income and the rent payable by him; and the rent payable by the cultivating tenant and the intermediary for the purposes of this explanation shall be as calculated under the provisions of this Act.

(4) Where a mortgagee in possession surrenders possession of the land mortgaged to him,-  
(i) where the ownership of the land mortgaged has been surrendered by the owner of the land, the mortgagee shall be treated as a holder of an encumbrance in respect of the land, and the encumbrance shall be discharged as provided in sections 101 and 102 ;  
(ii) in other cases, the Government shall pay to the mortgagee the amount to which he would have been entitled under clause (i) if the ownership of the land mortgaged had been surrendered to the Government, and hold the land as mortgagee with possession with all the rights and liabilities of the mortgagee.

#### **Payment of advance towards compensation.**

99. Pending determination of the amount of compensation payable to any person under section 98, it shall be competent for the Land Board to pay such amount as it considers proper to such person as part payment of the compensation on taking proper security, in case it is found that he is entitled to such amount. The amount so paid shall be deducted from the compensation payable to such person and the Land Board shall pay to him only the balance.

#### **Preparation of compensation roll.**

100. (1) As soon as may be after the Land Board has determined the extent and particulars of any land, the ownership or possession or both of which is or are to be surrendered, the Land Board shall, forwarding the necessary documents, direct the Land Tribunal to prepare and submit to the Land Board a compensation roll showing -

(a) the description of the land or the interests in the land surrendered or assumed ;

(b) the name and address of the person surrendering the same or from whom the same was assumed ;

(c) the names and addresses of the landowner, intermediary and the cultivating tenant and the amount of compensation payable to each ;

(d) the names of the holders of the encumbrances (including mortgagees who have surrendered possession of excess lands), maintenance or alimony and the value of the encumbrances or of the claims for maintenance or alimony ; and

(e) such other particulars as may be prescribed.

(2) On receipt of the direction under sub-section (1), the Land Tribunal shall, after giving an

opportunity to all persons interested to be heard and after making such enquiry as it considers necessary, prepare the draft compensation roll and furnish copies thereof to the persons interested.

(3) Where any land, the ownership or possession or both of which is or are surrendered to, or assumed by, the Government, forms part of the security for an encumbrance, maintenance or alimony, the Land Tribunal shall for the purpose of discharging the same apportion the entire encumbrance, maintenance or alimony between the land surrendered to, or assumed by, the Government and the portion of the security remaining, in proportion to the values of the two portions of the security.

(4) Within two weeks after the expiry of the period of appeal from the orders of the Land Tribunal prescribed under section 112, or where there has been an appeal, within two weeks after the disposal of the same, the Land Tribunal shall prepare a final compensation roll showing the particulars mentioned in sub-section (1). A copy of the final compensation roll so prepared shall be forwarded to the Land Board by the Land Tribunal.

### **Payment of compensation.**

101. (1) On receipt of the compensation roll under section 100, the Land Board shall pay the compensation to the persons entitled thereto, subject to the provisions of sub-section (2).

(2) Where the land or the ownership or possession of land which has vested in the Government, is subject to any encumbrance, maintenance or alimony, the value of the encumbrance, maintenance or alimony shall be deducted from the compensation amount payable to the person liable for such encumbrance, maintenance or alimony. If the total amount of such encumbrance, maintenance or alimony is more than the amount of compensation, the compensation amount shall be distributed to the holders of the encumbrance and the persons entitled to the maintenance or alimony in the order of priority.

(3) The Land Board shall also pay the mortgage amount payable to a mortgagee under clause (ii) of sub-section (4) of section 98.

### **Payment of compensation and amount of encumbrance.**

102. (1) The compensation or the amount of encumbrance, as the case may be, shall be paid either in cash or in negotiable bonds redeemable in sixteen years and carrying interest at the rate of 4½ per cent per annum with effect from the date on which the ownership or possession or both of the land has or have vested in the Government under section 96 or section 7, or partly in cash and partly in such bonds, in such manner as may be prescribed.

(2) The provisions of sub-sections (7), (8) and (9) of section 71 shall, as far as may be, apply in regard to the payment of compensation and other amounts under this section.

### **Payment of compensation to be full discharge.**

103. The payment of compensation in the manner specified in section 102 shall be a full discharge of the liability for payment of compensation, and no further claim therefor shall lie.

### **Assignment of rights vested in the Government to small-holders.**

104. (1) Where the landowner whose ownership of land is vested in the Government or the intermediary whose rights are extinguished under sub-section (4) of section 96 was a small-holder and the cultivating tenant of the holding was entitled to fixity of tenure immediately before the 28th

April, 1962, under any law then in force, the ownership or possession or both of land vested in the Government shall be assigned to such small-holder :

Provided that where are more than one such small-holder in respect of such land, the small-holder nearest to the cultivating tenant shall have priority for such assignment.

(2) The purchase price payable by the small-holder referred to in sub-section (1) for assignment of the ownership or possession or both of the land shall be fifty-five per cent of the market value of such rights.

(3) The purchase price shall be payable either in a lump or in sixteen equal annual installments.

(4) A small-holder entitled to the assignment of the ownership or possession or both of the land vested in the Government may apply to the Land Board for the assignment of the same within such time and in such manner as may be prescribed.

(5) On receipt of an application under sub-section (4), the Land Board shall, after due enquiry and being satisfied that the applicant is entitled to such assignment, assign the ownership or possession or both of such land to the small-holder on payment of the purchase price in a lump or the first instalment of the purchase price.

(6) The provisions of sub-sections (2) and (3) of section 107 shall, as far as may be, apply to the payment and recovery of the installments of the purchase price and interest thereon and as regards the charge for the amounts due from the assignee.

#### **Application for assignment of lands.**

105. Any person who does not possess any land or possesses only less than five acres of land in extent may apply to the Land Board for assignment on registry of lands to him.

#### **Assignment of lands by Land Board.**

106. (1) Subject to the provisions of section 104, the Land Board shall, after reserving in each village the lands necessary for public purposes, assign on registry the remaining lands vested in the Government under section 96 or section 97, as specified below namely :-

(i) the holdings in which there are kudikidappukars shall, as far as possible, be assigned to such kudikidappukars ;

(ii) out of the remaining area available for assignment -

(a) fifty per cent shall be assigned to the landless agricultural labourers of which one-half shall be assigned to the landless agricultural labourers belonging to Scheduled Castes residing in the same village or adjacent villages ;

(b) twenty-five per cent shall be assigned to small-holders and other landlords who are not entitled to resume any land ;

(c) the remaining twenty-five per cent shall be assigned to the cultivators who do not possess more than five acres of land in extent ;

Provided that in assigning lands under this sub-section to the persons specified in sub-clause

(a), sub-clause (b) or sub-clause (c), first preference shall be given to dependants of members of the Armed Forces who died in action, and ex-servicemen belonging to the respective classes, and subject as above, preference shall be given to co-operative societies formed by persons specified in the respective sub-clauses.

**Explanation.-** For the purposes of this sub-section, a kudikidappukaran or a tenant of a kudikidappu shall be deemed to be a landless labourer if he does not possess any other land.

(2) The Land Board shall not assign to any person more than five acres in extent of land.

(3) Where a person possesses any land, only so much land as will make the extent of land in his possession five acres shall be assigned to him.

#### **Payment of purchase price.**

107. (1) The purchase price of the land assigned on registry under section 106 shall be an amount equal to fifty-five per cent of the market value of the land and improvements, if any, thereon, and shall be payable either in lump or in sixteen equal annual installments. The assignment shall be made on payment of the Purchase price either in lump or the first installments thereof.

(2) where the purchase price is payable in installments, the amount outstanding after payment of each instalment shall bear interest at the rate of 4 1/2 per cent per annum.

(3) All amounts due from an assignee shall be a first charge on the land assigned and shall be recoverable as arrears of land revenue under the law for the time being in force relating to the recovery of land revenue.

#### **Management of surrendered lands till assignment.**

108. The Land Board shall, subject to such rules as may be made by the Government in this behalf, manage the lands vested in them, until they are assigned under sections 104 and 106, by making arrangements for their cultivation and protection.

### **CHAPTER IV**

#### **MISCELLANEOUS**

##### **Constitution of Land Tribunal.**

109. The Government may, by notification in the Official Gazette, constitute a Land Tribunal consisting of a single member who shall be a judicial officer of the rank of Judge de Paix for the purpose of performing the functions of a Land Tribunal under this Act.

##### **Constitution of Land Board.**

110. The Government shall constitute a Land Board for performing the functions of the Land Board under this Act. The Board shall consist of a single member, who shall be the Secretary to Government, Revenue and Development Department, Pondicherry or such officer of an appropriate rank, as the Government may specify for the purpose.

### **Power of the Land Board and Land Tribunal.**

111. (1) The Land Board and the Land Tribunal constituted under this Act shall have all the powers of a civil court while trying a suit under the law for the time being in force relating to civil procedure, in respect of the following matters, namely :-

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of any document ;
- (c) receiving evidence on affidavit ;
- (d) issuing commissions for the examination of witnesses or for local investigation ; and
- (e) any other matter which may be prescribed.

(2) The Land Board shall have superintendence over the Land Tribunal, and the Land Board may -

- (a) call for returns from the Land Tribunal,
- (b) make and issue general rules and prescribe forms for regulating the practice and proceedings of the Land Tribunal ; and
- (c) prescribe forms in which books, entries and accounts shall be kept by the Land Tribunal,

(3) Where in any proceeding before the Land Tribunal a question arises whether a person is a small-holder or not or whether a person is or is not a tenant, it shall be competent for the Land Tribunal to decide the question.

(4) If any question arises as to whether any land is principally used for the purposes specified in clause (5) of section 2, the question shall be decided by the Land Board, after taking into account the extent of, the amount invested in, and the income from the portion of the land so used and the remaining portion and other relevant matters, and the decision of the Land Board shall be final.

### **Appeals.**

112. (1) Any person aggrieved by the orders of the Land Tribunal under sub-section (2) of section 7, section 15, section 29, section 37, section 53, sub-section (3) or sub-section (4) of section 54, sub-section (3) of section 5, sub-section (6) of section 60, section 65, sub-section (4) of section 74, section 100 or section 116 may appeal against such order within such time as may be prescribed to the President, Court of First Instance, Pondicherry, who shall hear the appeal as persona designata and his decision thereon shall be final, subject to the provisions of section 113.

(2) The President, Court of First Instance shall have power to pass interlocutory order or to remand any case to the Land Tribunal for reconsideration in accordance with his directions.

(3) Where there has been any modification in appeal from the orders of the Land Tribunal, such orders shall be modified accordingly.

### **Revision by High Court.**

113. (1) Any person aggrieved by -

- (i) Any final order passed in an appeal against the order of the Land Tribunal ; or
- (ii) any final order passed by the Land Board under this Act, may within such time as may be

prescribed, prefer a petition to the High Court against the order on the ground that the appellate authority or the Land Board, as the case may be, has either decided erroneously, or failed to decide, any question of law.

(2) The High Court may, after giving an opportunity to the parties to be heard, pass such orders as it deems fit and the orders of the appellate authority or the Land Board, as the case may be, shall, wherever necessary, be modified accordingly.

(3) The High Court may, for the purpose of satisfying itself that an order made by the Land Tribunal under section 32 was according to law, call for the records and pass such order with respect thereto as it thinks fit.

#### **Proceedings by or against joint families, etc.**

114. (1) Where, in any proceeding under this Act, a joint family is a party, it shall be sufficient to implead the manager, karanavan or yajaman and the senior most male member of such family and, in the case of a maramakkathayam or aliyasanthana family, also the karanavan or yajaman of each tavazhi or kavaru, but any other member of the family shall have the right to get himself impleaded as a party.

(2) Where any such proceeding relates to any property or part thereof under the management of a receiver appointed by a court, it shall be sufficient to implead the receiver as party to the proceeding.

#### **Authorised officer empowered to obtain information from persons.**

115. (1) For the purpose of carrying into effect the provision of this Act, any officer not below the rank of a Deputy Tahsildar authorised by the Government in this behalf (hereinafter in this section referred to as the authorised officer) may, by notice, require any person to furnish any information relating to the extent of land held by such person the number of members of the family, if any, of such person, and such other particulars as may be prescribed. The person aforesaid shall furnish the information to such officer within such time as may be specified in the notice or within such further time not exceeding thirty days as the authorised officer may, in his discretion, allow.

(2) (a) Where any person on whom notice under sub-section (1) has been served fails to furnish the information within the time specified in that notice or within the further time allowed by the authorised officer under sub-section (1), the authorised officer may obtain, in such manner as may be prescribed, the necessary information either by himself or through such agency as he thinks fit.

(b) The authorised officer shall, as soon as may be after obtaining the information under clause (a), give to the person concerned a reasonable opportunity of making his representation and of adducing evidence, if any, in respect of such information and consider any such representation and evidence and pass such orders as he deems fit.

#### **Special provisions relating to leases for commercial or industrial purposes.**

116. Notwithstanding anything contained in this Act, or in any other law, or in any contract, or order or decree of court, where, on any land leased for commercial or industrial purpose, the lessee has constructed buildings for such commercial or industrial purpose before the date of publication of the Mahe Land Reforms Bill, 1968 in the Official Gazette, he shall not be liable to be evicted from such land, but shall be liable to pay rent under the contract of tenancy. Such rent shall be liable to be varied every twelve years on the motion of the lessor or the lessee, in such manner as may be prescribed.

### **Costs.**

117. (1) Subject to the provisions of this Act, the costs of an incident to all proceedings before the Land Tribunal shall be in its discretion and it shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purposes aforesaid. The fact that any proceeding before the Land Tribunal is without jurisdiction shall be no bar to the exercise of such powers.

(2) An order passed by the Land Tribunal in exercise of the powers vested in it under sub-section (1) may be executed through the court as if the order were a decree passed by it.

### **Special provisions for application of the Act.**

118. (1) If any difficulty arises in the application of the provisions of this Act to any area on account of local variations or difference in nomenclature between the tenures prevailing in that area (by whatever name such tenures may be known) and the corresponding tenures prevailing in the parts adjoining that area, the Government may, subject to the provisions of sub-section (2), by notification in the Official Gazette, direct that the said provisions shall apply to the aforesaid area subject to such adaptations, exceptions and modifications as may be specified in this behalf in such notification.

(2) A draft of the notification proposed to be issued under sub-section (1) shall be laid before the Legislature Assembly for a period of fourteen days, and the Legislature Assembly may approve the draft with or without modification or disapprove the draft during the period in which it is so laid. On approval of the draft by the Legislative Assembly, the Government shall publish the notification as approved, in the Official Gazette. If the Legislative Assembly does not -

- (i) approve with or without modification ; or
- (ii) disapprove,

the said draft during the period aforesaid, it shall be lawful for the Government to publish the notification in the Official Gazette in terms of the draft.

### **Restoration of possession of land to certain evicted tenants.**

119. Where a tenant has, on or after the 28th April, 1962, been evicted from his holding in contravention of the law for the time being in force regulating the relationship of landlord and tenant, the Administrator or any other authority empowered by him in this behalf may, suo motu or on application made by the tenant before the expiration of one year from the date of commencement of this Act and after such enquiry as he may deem fit, restore to the tenant the possession of the land from which he was evicted unless some other tenant, not being a member of the landowner's family, had been admitted to possession of such land before the date of publication of this Act.

### **Apportionment of land value in cases of acquisition.**

120. (1) Where the land comprised in a holding is acquired under the law for the time being in force providing for the compulsory acquisition of land for public purposes, the compensation awarded under such law in respect of the land acquired shall be apportioned among the landowner, intermediaries, cultivating tenant and kudikidappukaran in the manner specified in sub-sections (2) to (4).

(2) The compensation for any building or other improvements shall be awarded to the person entitled to such building or other improvements.

(3) The kudikidappukaran shall be entitled to ninety per cent of the value of the land occupied by his homestead or hut.

(4) The balance remaining after making the payments referred to in sub-sections (2) and (3) shall be apportioned among the landowner, the intermediaries and the cultivating tenant in proportion to the profits derivable by them from the land acquired immediately before, such acquisition.

**Explanation.-** "Profits derivable from the land" shall be deemed to be equal to,-

(i) in the case of a landowner the rent which he was entitled to get from the tenant holding immediately under him ;

(ii) in the case of an intermediary, the difference between the rent which he was entitled to get from his tenant and the rent for which he was liable to his landlord ; and

(iii) in the case a cultivating tenant, the difference between net income and the rent payable by him ;

and the rent payable by the cultivating tenant and the intermediary for the purpose of this explanation shall be as calculated under the provisions of this Act.

#### **Prices published under section 49 to be deemed to be market rates.**

121. If for the purposes of this Act, the price of any commodity referred to in section 49 has to be commuted into money at the market rate for any date, such commutation shall be made at the price of that commodity published by the Collector under the said section for the relevant quarter.

#### **Appearance before Land Tribunal or Land Board.**

122. (1) Any appearance, application or act in or to any Land Tribunal or the Land Board required or authorised by law to be made or done by a party in such Land Tribunal or the Land Board, may be made or done by the party in person or by his recognised agent or by a pleader appearing , applying or acting, as the case may be, on his behalf :

Provided that any such appearance, shall, if the Land Tribunal or Land Board so directs, be made by the party in person.

(2) The recognised agents of parties by whom such appearance, application and act may be made or done are persons holding powers of attorney authorising them to make and do such appearance, application and act on behalf of such parties.

#### **Court fees.**

123. Notwithstanding anything contained in any law for the time being in force relating to court fee, every application or appeal made under this Act to the Land Tribunal or the Land Board shall bear court fee stamp of such value as may be prescribed.

#### **Members of Land Board and Land Tribunal to be deemed public servants.**

124. The members of the Land Board and the Land Tribunal and any officer appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code 1860 (Central Act 45 of 1860).

**Penalty for disturbance of easements attached to kudikidappu.**

125. Any person who in any manner disturbs or interferes with the easements to which a kudikidappukaran is entitled shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

**Penalty for failure to furnish return.**

126. (1) If any person who is under an obligation to furnish a return or information under this Act refuses or wilfully fails to furnish the return or information within the time specified for the purpose, he shall be punishable with fine which may extend to two hundred rupees.

(2) If any person who, after having been convicted under sub-section (1), continues to refuse or to wilfully fail to furnish the return or information, he shall be punishable with fine which may extend to fifty rupees for each day after the previous date of conviction during which he continued so to offend.

**Penalty for furnishing false returns or information.**

127. If any person who is under an obligation to furnish any return or information furnishes any return or information which he knows or he has reason to believe to be false, he shall be punishable with fine which may extend to one thousand rupees.

**Penalty for making false declaration.**

128. (1) After the date notified under sub-section (1) of section 93, no document relating to any transfer of land shall be registered unless the transferee makes a declaration in such form as may be prescribed in writing (in duplicate) as to the total extent of land held by him. The registering officer shall forward a copy of the declaration to the officer authorised by the Government for such action as may be necessary.

(2) If any person makes any declaration before the registering officer under sub-section (1), which he knows or has reason to believe to be false he shall be punishable with fine not exceeding one thousand rupees.

**Penalty for contravention of any lawful order.**

129. If any person wilfully contravenes any lawful order passed under this Act or obstructs any person from lawfully taking possession of any land under any of the provisions of this Act, he shall be punishable with fine which may extend to five hundred rupees.

**Penalty for eviction.**

130. Any person who,-

(i) contravenes the provisions of section 89, or

(ii) evicts or attempts to evict a cultivating tenant, or a holder of a kudiyuruppuy or a kudikidappukaran from his holding, kudiyiruppu or kudikidappu, as the case may be, in contravention of any other provision of this Act, shall be punishable with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

### **Penalty for cutting trees or for removing any machinery, etc.**

131. Any person causing destruction or damage to, or removal of, trees, buildings, machinery, plant, or apparatus, situated on any land indicated as lands to be surrendered under sub-section (2) of section 95 shall be punishable with imprisonment for a term which may extend to one year, or with fine not exceeding one thousand rupees, or with both.

### **Cognizance of offences.**

132. (1) No court shall take cognizance of any offence punishable under this Act, except on complaint in writing made by an officer authorised by the Government in this behalf.

(2) No court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act.

### **Protection of action taken under Act.**

133. No suit, prosecution or other legal proceeding shall lie against any officer for anything in good faith done or intended to be done under this Act, or the rules made thereunder.

### **Bar of jurisdiction of courts.**

134. No order of the Land Tribunal or the Land Board under this Act shall be called in question in any court, except as provided in this Act.

### **Construction of references to acres and cents.**

135. All references in this Act to areas of land expressed in terms of acres (but not standard acres) and cents shall be construed as references to acres expressed in terms of hectares and ares, converted thereto.

### **Act to over-ride other laws, etc.**

136. The provisions of this Act shall have effect notwithstanding anything in any other law or any custom or usage or in any contract, express or implied, inconsistent with the provision of this Act.

### **Power to remove difficulties.**

137. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order to be notified in the Official Gazette, do anything not inconsistent with the provisions of this Act which appears to the Government to be necessary for the purpose of removing the difficulty :

Provided that no such order shall be made under this section with reference to any matter relating to any provision of this Act after the expiration of two years from the date of the commencement of that provision.

### **Power to make rules.**

138. (1) The Government may make rules to carry out all or any of the purposes of the Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely :-

- (a) the procedure relating to resumption ;
- (b) the fees payable on applications or claims made before the Land Tribunal or the Land Board and the persons by whom and the period within which such fees shall be paid.
- (c) the registers to be kept and maintained by the Land Tribunal and the Land Board and the Particulars to be entered therein ;
- (d) the manner of preparation of record of rights ;
- (e) form of application for fair rent and procedure in relation thereto ;
- (f) the manner of publication of prices of commodities ;
- (g) the apportionment of rent on severance of interest of landlord or tenant and form for the purpose ;
- (h) the procedure to be followed in the preparation of compensation rolls ;
- (i) the filing of statements before the Land Tribunal and the Land Board ;
- (j) the procedure to be followed by the Land Tribunal and the Land Board ;
- (k) for the joint consideration by the Land Tribunal of two or more applications involving the same question ;
- (l) the assignment of lands by the Land Board under sections 104 and 106 and ;
- (m) the management of land before assignment under section 108 ;and
- (n) any other matter which under this Act is to be, or may be prescribed.

(3) All rules made under this Act shall, as soon as may be after they are made, be laid before the Legislative Assembly, Pondicherry while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made or issued, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

#### **Limitation.**

139. In computing the period of limitation for the institution of suits or proceedings under this Act, the time during which such suits or proceedings were prohibited or stayed under any of the enactments repealed by this Act, shall be excluded.

#### **Repeal and savings.**

140. (1) (a) The Mahe (Stay of Eviction Proceedings) Regulation, 1963 (5 of 1963) is hereby repealed and all suits, appeals, revisions, reviews and proceedings in execution of decrees stayed by

the said enactment may be disposed of by the courts in which they were pending at the commencement of this Act, in accordance with the provisions of this Act :

Provided that where a tenant has, on or after the 31st December, 1963, been evicted from his holding and the eviction could not have taken place if the aforesaid law relating to the stay of eviction had been in force, the Administrator or any other authority empowered by him in this behalf may, *suo motu* or on application made by the tenant before the expiry of one year after the commencement of this Act and after making such enquiry as he may deem fit, restore to the tenant the possession of the land from which he was evicted, unless some other tenant, not being a member of the landowner's family, had been admitted to possession of such land before the 18th November, 1964, and section 3-C of the said regulation shall, for that purpose, be deemed to continue in force.

(b) The costs in respect of the suits, appeals, revisions, reviews and execution proceedings stayed by the enactment specified in clause (a) shall be in the discretion of the court.

(2) The Malabar Tenancy Act, 1929 ( Madras Act 14 of 1930 ) ( hereinafter referred to as the said Act ) as applicable to Mahe area is hereby repealed.

Notwithstanding the repeal of the Malabar Tenancy Act, 1929 (Madras Act 14 of 1930 ), under sub-section (2),-

(a) any decree passed before the commencement of this Act for the eviction of a tenant from his holding pursuant to which eviction has not been effected, may, on the application of the tenant or the landlord, be reopened and the matter may be disposed of in accordance with the provisions of this Act ;

(b) any suit for restoration filed under section 24 or section 26 of the said Act and pending disposal at the commencement of this Act shall be disposed of in accordance with the provisions of the said Act as if it had not been repealed ;

(c) (i) where the decree-holder, plaintiff, appellant or petitioner, as the case may be, is a person entitled to resumption of land under this Act and shall contain a statement of facts in support of the claims of the applicant and also the names and addresses of all persons who have interest in the holding or any part thereof to which he is entitled ;

(ii) the application under sub-clause (i) shall be made within one year from the commencement of this Act and shall contain a statement of facts in support of the claims of the applicant and also the names and addresses of all persons who have interest in the holding, either as owner, lessee or kudikidappukaran ;

(iii) the court shall dispose of the application as if it were an application for resumption before the Land Tribunal under this Act ;

(d) notwithstanding anything contained in the law for the time being in force relating to civil procedure in the matter of *res judicata*, the right conferred on the decree-holder, plaintiff, appellant or petitioner, as the case may be, under sub-clause (i) of clause (c) shall not be deemed to take away or in any manner affect his right to apply for resumption under this Act ;

(e) all applications for determination of fair rent filed or purported to have been filed under the said Act in which no order determining the fair rent had been passed by the rent court shall be deemed to have been filed under this Act and shall be disposed of according to the provisions of this Act ;

(f) where the rent court constituted under the said Act had passed an order determining the fair rent in respect of a holding, but an appeal or application for revision in respect of such order was pending before the appellate or revising authority, at the time of the commencement of this Act, such appellate or revising authority shall reopen the matter and dispose of it in accordance with the provisions of this Act and for that purpose, shall have all the powers of the appellate or revising authority, as the case may be, under this Act ;

(g) where the rent court constituted under the said Act had passed an order determining the fair rent in respect of a holding, but the time for preferring an appeal or revision in respect of such order had not expired at the commencement of this Act, any party aggrieved by the order of the rent court may, within three months from the commencement of this Act, prefer an appeal or an application for revision against such order before the appellate or revising authority under this Act and thereupon such authority shall reopen the matter and dispose of it in accordance with the provision of this Act.

### SCHEDULE-I

[ See section 2 (47) ]

#### PART-I

#### Lands other than nilams

| Class of land                                  | --- | Standard acre |
|--|-----|---------------|
| 1. Garden                                      | --- | 1-00          |
| 2. Dry land principally cultivated with cashew | --- | 1-50          |
| 3. Other dry land                              | --- | 3-00          |
| 4. Palliyal land                               | --- | 3-00          |

#### PART-II

#### Standard acres of nilam

| Class of land     | --- | Standard acre |
|-------------------|-----|---------------|
| Double crop nilam | --- | 1-75          |
| Single crop nilam | --- | 4-00          |

### SCHEDULE-II

( See section 33 )

#### Rates of fair rent

| Sl. No.<br>(1) | Class of land<br>(2)                              | Rate of fair rent<br>(3)          |
|----------------|---|-----------------------------------|
| 1.             | Nilams-   |                                   |
|                | (i) Land converted into nilam by tenant's labour. | 1/8th of the gross paddy produce. |

|  |   |
|--|---|
| (ii) Other nilam.  | 1/4th of the gross paddy produce.   |
| (iii) Nilam where fishing is carried on for part of the year by a varamdar.            | Aggregate of rent fixed as for nilam and 1/8 of the gross annual income derived from fishing in such manner as may be prescribed. |
| (iv) Nilam not used for paddy cultivation ( but not cultivated with sugarcane ).       | Rent that would have been payable had the land been used for cultivation of paddy.  |
| <b>2. Garden-</b>  |   |
| (i) Coconut trees in respect of which the landlord is bound to pay compensation        | 1/10th of the gross coconut produce   |
| (ii) Coconut trees in respect of which the landlord is not bound to pay compensation.  | 1/3rd of the gross coconut produce  |
| (iii) Arecanut trees in respect of which the landlord is bound to pay compensation     | 1/ 10 th of the gross arecanut produce  |
| (iv) Arecanut trees in respect of which the landlord is not bound to pay compensation. | 1/4th of the gross arecanut produce.  |
| (v) pepper -vines in respect of which the landlord is bound to pay compensation        | 1/8 of the gross pepper produce   |
| (vi) Pepper-vines in respect of which the landlord is not bound to pay compensation.   | 1/4th of the gross pepper produce.  |
| <b>3. Dry land-</b>  |   |
| (a) cultivated with groundnut or other crops notified by the Government.               | 1/8th of the gross produce.   |
| (b) in other cases   | Rs. 4 per acre.   |
| <b>4. Land not falling under any of items.</b>   | Contract rent.  |

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