The Goa Land Revenue Code (Amendment and Validation of Proceedings and Orders) Bill, 2015

(Bill No. 24 of 2015)

A

BILL

further to amend the Goa Land Revenue Code, 1968(Act 9 of 1969), and validate the proceedings and orders of the Deputy Collector.

BE it enacted by the Legislative Assembly of Goa in the Sixty-sixth Year of the Republic of India, as follows:

1. Short title and commencement.- (1) This Act may be called the Goa Land Revenue Code (Amendment and Validation of Proceedings and Orders) Act, 2015.

(2) It shall come into force at once.

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

(a) the "said Act" means the Goa Land Revenue Code, 1968 (Act 9 of 1969);

(b) "Collector" means the Collector as defined under clause (7) of section 2 of the said Act;

(c) "Deputy Collector" means the Deputy Collector appointed in terms of section 4 of the said Act.

3. Insertion of section 6A in the Act 9 of 1969.—In the Goa Land Revenue Code, 1968 (Act 9 of 1969), after section 6, the following section shall be inserted, namely:-

"6A. Duties and Powers of Deputy Collector.— Notwithstanding anything contained in this Code or any order issued by the Collector, reserving his duties, functions and powers bestowed on the Deputy Collector in terms of sub-section (2) of section 6 of this Code unto himself, the Deputy Collector shall be deemed to have performed all the duties and functions and exercised validly, all the powers of the Collector before the date of commencement of the Goa Land Revenue Code (Amendment and validation of Proceedings and Orders)Act, 2015, as if such powers were vested in him at all material times under this Code".

4. Validation of notices, proceedings, orders, etc of the Deputy Collector under said Act.- (1) Notwithstanding anything contained in said Act or in any Judgment, decree or order of any Court or Tribunal or any other authority or notification or order issued by the Collector to the contrary, all notices given, inquires held, proceedings conducted, disputes decided, orders passed and all actions taken or done by any Deputy Collector under any section of the said Act, by exercising powers of Collector, before the commencement of this Act shall, for all purposes, be deemed to be and to have always been validly given, held, conducted, decided, passed, taken or done, as the case may be, in accordance with the provisions of the said Act.

(2) No suit or other legal proceedings shall lie or be maintained or continued in any Court or any Tribunal or any other authority for challenging or questioning the validity of any notice given, inquiry held, proceeding conducted, dispute decided, order passed or action taken by a Deputy Collector under the said Act, before the commencement of this Act, and no Court or Tribunal or any authority shall enforce or recognize any decree drawn, Judgment or order passed declaring any such action taken or things done as invalid or unlawful.

STATEMENT OF OBJECT AND REASONS

Instances are noticed by the Government that the Administrative Tribunal has held in certain cases pertaining to section 33 of the Goa Land Revenue Code, 1968 (Act No.1 of 1969) that the Orders passed by the Courts of Deputy Collector and Sub Divisional Officers are without jurisdiction and hence void. It is revealed that the Collectors from North Goa District in exercise of powers under Section 6(2) of the code have delegated their powers under Section 33 of the Code to the Deputy Collectors, whereas some Collectors have retained the powers with them. However the Courts of Deputy Collectors continued to hear and dispose of the cases under Section 33 of the code irrespective of the fact that new incumbents who have been posted as Collectors in North Goa District from time to time have not delegated their said powers to the Deputy Collectors. This has created void and confusion with regards to the authority and enabling powers of the Deputy Collector to hear and dispose cases under the said provision.

In view of the Judgment of the Administrative Tribunal as referred above, numerous cases heard and disposed of by the Court of Deputy Collectors may be presumed to have been issued without authority. This would create confusion and irreparable loss to the revenue of the exchequer and hardships to all the concerned litigants.

Hence in Order to save all the cases so heard and disposed of by the Deputy Collectors from a technical interpretation and rendering it Void, it is required to confer powers on to Deputy Collector for hearing such cases under Land Revenue Code and to validate their actions by a new legislation. It is also desired to clear the doubts about authority of the Deputy Collectors to hear and dispose such cases, and avoid multiplicity of litigations. Hence this “The Goa Land Revenue Code (Validation of Proceedings and Orders) Bill, 2015” is proposed to be enacted.

The Bills seeks to achieve the above objective.

FINANCIAL IMPLICATION

No financial implications are involved in this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

No delegated legislation is envisaged in the Bill.

Place: Porvorim, Goa.
Dated:_____ August, 2015.

Shri. Francis D’souza

Assembly Hall,
Porvorim, Goa.
Dated: _____ August, 2015.

Shri. Nilkanth Subhedar
Secretary to the Legislative
Assembly of Goa.

Relevant extracts of LRC

Section 6 (2)

6. Function of the Collector and certain other revenue officers.— (1) Each district shall be placed under the charge of a Collector who shall be in charge of the revenue administration of the district and exercise the powers and discharge the duties of the Collector under this Code or any other law for the time being in force and shall exercise such other powers of superintendence and control within the district and over the officers subordinate to him as may, from time to time, be prescribed.

(2) Each sub-division shall be placed under the charge of an Assistant or Deputy Collector who shall, subject to the provisions of Chapter XII, perform all the duties and functions and exercise all the powers conferred upon a Collector by this Code or any law for the time being in force, in relation to the sub-division in his charge. Such Assistant or Deputy Collector shall be called a Sub-Divisional Officer:

Provided that the Collector may whenever he may deem fit direct any such Sub-Divisional Officer not to perform certain duties or exercise certain powers and may reserve the same to himself or assign them to any Assistant or Deputy Collector subordinate to the Collector.

(3) Each Taluka shall be placed under the charge of a Mamlatdar.

(4) The duties and powers of the Mamlatdars and other revenue officers shall be such as may be imposed or conferred on them by or under this Code or any other law for the time being in force or by any general or special order of the Government published in the Official Gazette: Provided that in case of appointment of Additional Collectors or Joint Mamlatdars by Government in such number as it may deem necessary in each district, such officers shall exercise such of the powers and discharge such of the duties of the Collector, the Sub-Divisional Officer or the Mamlatdar under this Code or any other law for the time being in force As the Government may direct specifically, by notification, in this behalf.

Explanation:—

(a) An Additional Collector shall not be subordinate to the Collector in the district,, except in such matters as Government may, by general or special orders, specify in this behalf.

(b) An Assistant Collector or Deputy Collector shall not be subordinate to the Sub-Divisional Officer in the Sub-Division except in such matters as the Government may, by general or special orders, specify in this behalf.

(c) A Joint Mamlatdar shall not be subordinate to the Mamlatdar in the Taluka except in such matters as the Government may, by general or special orders, specify in this behalf.

Section 33

33. Penalty for so using land without permission.— (1) If any land held or assessed for one purpose is used for another purpose without obtaining permission of the Collector under section 32 or before the expiry of the period after which the change of user is deemed to have been granted under that section, or in contravention of any of the terms and conditions subject to which such permission is granted, the holder thereof or other person claiming through or under him, as the case may be, shall be liable to the one or more of the following penalties, that is to say,—

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

(ii) to pay such fine not exceeding the market value of the land as the Collector may, subject to rules made by the Government in this behalf, direct;

(iii) to restore the land to its original use or to observe the conditions on which the permission is granted within such reasonable period as the Collector may by notice in writing direct; and such notice may require such person to remove any structure, to fill up any excavation or to take such other steps as may be required in order that the land may be used for its original purpose or that the conditions
may be satisfied.

(2) If any person fails within the period specified in the notice aforesaid to take steps required by the Collector, the Collector may also impose on such person a penalty not exceeding three hundred rupees for such contravention, and a further penalty not exceeding thirty rupees for each day during which the contravention continues. The Collector may himself take those steps or cause them to be taken; and any cost incurred in so doing shall be recoverable from such person as if it were an arrear of land revenue.

Explanation:— Using land for the purpose of agriculture where it is assessed with reference to any other purpose shall not be deemed to be change of user.