**ALIENATION OF, AND SUCCESSION TO, RIGHT OF OCCUPANCY**

Alienation

[50]

[52-A. Provisions of Chapter V not to apply to muqarraridars.– The provisions of this Chapter shall

not apply to muqarraridars].

53. Private transfer of right of occupancy under section 5 by tenant.– (1) A tenant having right of occupancy

under section 5 may transfer that right by sale, gift or mortgage, subject to the conditions mentioned in the section.

(2) If he intends to transfer the right by sale, gift, mortgage by conditional sale or usufructuary mortgage,

he shall cause notice of his intention to be served on his land-lord through a Revenue Officer, and shall defer

proceeding with the transfer for a period of one month from the date on which the notice is served.

(3) Within that period of one month the land-lord may claim to purchase the right at such value as a

Revenue Officer may, on application made to him in this behalf, fix.

(4) When the application to the Revenue Officer is to fix the value of a right of occupancy which is

already mortgaged, he shall fix the value of the right as if it were not mortgaged.

(5) the land-lord shall be deemed to have purchased the right if he pays the value to the Revenue Officer

within such time as that officer appoints.

(6) On the value being so paid, the right of occupancy shall be extinct, and the Revenue Officer shall, on

the application of the land-lord, put the land-lord in possession of the tenancy.

(7) If the right of occupancy was already mortgaged, the tenancy shall pass to the land-lord

unencumbered by the mortgage, but the mortgage-debt shall be a charge on the purchase money.

(8) If there is no such charge as aforesaid the Revenue Officer shall, subject to any directions which he

may receive from any Court, pay the purchase-money to the tenant.

(9) If there is such a charge the Revenue Officer shall, subject as aforesaid either apply in discharge of the

mortgage-debt so much of the purchase-money as is required for that purpose and pay the balance, if any, to

the tenant, or retain the purchase-money pending the decision of a Civil Court as to the person or persons

entitled thereto.

(10) Where there are several land-lords of a tenancy, any one of them may be deemed to be the land-lord

for the purposes of this section.

(11) No suit or other proceeding shall be instituted against the [51]

[Government] or against [52]

[any servant

of the State], in respect of anything done by a Revenue Officer under the two last foregoing sub-sections, but

nothing in this sub-section shall prevent any person entitled to receive the whole or any part of the purchasemoney from recovering it from a person to whom it has been paid by a Revenue Officer.

54. Procedure on foreclosure of mortgage of right of occupancy under section 5.– Where a mortgagee of a

right of occupancy under section 5 proposes to foreclose his mortgage, or otherwise enforce his lien on the land

subject to the right, the provisions of the last foregoing section shall, so far as they can be made applicable,

apply as if the mortgagee were the tenant.

55. Sale of right of occupancy under section 5 in execution of decree.– (1) A right of occupancy under

section 5 may be sold in execution of a decree or order of a Court.

(2) But notice of an intended sale of any such right shall be given by the Court to the land-lord, and, if at any time

before the close of the day on which the sale takes place the land-lord pays to the Court or to the officer conducting the

sale a deposit of twenty-five per centum on the highest bid made at the sale, he shall be declared to be the purchaser

instead of the person who made that bid.

56. Transfer of right of occupancy under any other section than section 5.– A right of occupancy under any

other section than section 5 shall not be attached or sold in execution of a decree or order of any Court or, without the

previous consent in writing of the land-lord, be transferred by private contract.

57. Rights and liabilities of transferee of right of occupancy.– When a right of occupancy has been

transferred by sale, gift or usufructuary mortgage to a person other than the land-lord, that person shall, in

respect of the land in which the right subsists, have the same rights, and be subject to the same liabilities as

the tenant to whom before the transfer of the right had belonged, and was subject to.

58. Sub-letting.– (1) A tenant having a right of occupancy in land may, subject to the provisions of this Act

and to the conditions of any written contract between him and his land-lord, sublet the land or any part thereof

for any term not exceeding seven years.

(2) A person to whom land is sublet by a tenant having a right of occupancy therein shall, in respect of

that land, and so far as regards the land-lord be jointly with the tenant, subject to all the liabilities of the tenant

under this Act.

[53]

[58-A. Transfer of right of occupancy under any section of the Act by exchange.– (1) Any tenant with a

right of occupancy may, with the consent of his land-lord, transfer his land to all the members of a Co-operative

Society for the consolidation of holdings of which both he and his land-lord are members and obtain from them

any other land in exchange.

(2) Notwithstanding anything contained in this Act or any other enactment in force, any land obtained in

exchange in pursuance of the provisions of sub-section (1) shall be deemed to be subject to the same right of

occupancy as the land given for it in exchange].

Succession

[54]

[59. Succession to right of occupancy.– (1) When a Muslim tenant having a right of occupancy in any land

dies, the right shall devolve on his heirs in accordance with the provisions of the Muslim Personal Law (Shariat):

Provided that when the occupancy rights are held by a female as a limited owner under Customary Law,

succession shall open out on the termination of her limited interest to all persons who would have been

entitled to inherit the property at the time of the death of the last full owner had the Muslim Personal Law

(Shariat) been applicable at the time of such death, and in the event of the death of any of such persons before

the termination of the limited interest mentioned above, succession shall devolve on his heirs and successors

existing at the time of the termination of the limited interest of the female as if the aforesaid such person had

died at the termination of the limited interest of the female and had been governed by the Muslim Personal

Law (Shariat):

Provided further that the share which the female limited owner would have inherited had the Muslim

Personal Law (Shariat) been applicable at the time of the death of the last full owner shall devolve on her if

she loses her limited interest in the property on account of her marriage or remarriage and on her heirs under

the Muslim Personal Law (Shariat) if her limited interest terminates because of her death.

(2) When a non-Muslim tenant having a right of occupancy dies, the right shall devolve–

(a) on his male lineal descendants, if any, in the male line of descent; and

(b) failing such descendants, on his widow, if any, until she dies or remarries or abandons the land or

is under the provisions of this Act ejected therefrom; and

(c) failing such descendants and widow or his widowed mother, if any, until she dies or remarries or

abandons the land or is under the provisions of this Act ejected therefrom; and

(d) failing such descendants and widow, or widowed mother or if the deceased tenant left a widow or

widowed mother, then when her interest terminates under clause (b) or (c) of this sub-section, on his

male collateral relatives in the male line of descent from the common ancestor of the deceased tenant

and those relatives:

Provided with respect to clause (b) of this sub-section, that the common ancestor occupied the land.

Explanation– For the purpose of clause (d), land obtained in exchange by the deceased tenant or any of his

predecessors-in-interest in pursuance of the provisions of sub-section (1) of section 58-A shall be deemed to

have been occupied by the common ancestor if the land given for it in exchange was occupied by him.

(3) As among descendants and collateral relatives claiming under sub-section (2) the right shall subject to

the provisions of that sub-section, devolve as if it were land left by the deceased in the village in which the

land subject to the right is situate.

(4) When the widow of a deceased tenant succeeds to a right of occupancy under sub-section (2), she

shall not transfer the right by sale, gift or mortgage or by sub-lease for a term exceeding one year.

(5) If a deceased tenant has left no person on whom his right of occupancy may devolve under subsection (1) or sub-section (2), as the case may be, the right shall be extinguished].

Irregular transfers

60. Irregular transfer of right of occupancy.– Any transfer made of a right of occupancy in contravention

of the foregoing provisions of this Chapter shall be voidable at the instance of the land-lord.