GOVERNMENT OF KARNATAKA
Karnataka Government Secretariat,
M.S.Building,
Bangalore,

Sl No 518

Circular Number RD 55 LRM 72

Date 06/08/72

Section Land Reforms

Subject Implementation of Mysore Land Reforms Act,
1961 – Further instructions

Body GOVERNMENT OF MYSORE

No. RD 55 LRM 72 Mysore Government Secretariat,
"Vidhana Soudha"
Bangalore : Dt : 8-6-1972.

C I R C U L A R

Sub : Implementation of Mysore Land Reforms Act,
1961 – Further instructions

ACTION TO BE TAKEN WHERE A PERSON FAILS TO FILE DECLARATION :

A proforma for disposal of declarations filed under Section 66 of Mysore Land Reforms Act, 1961 has been devised and enclosed to Government Circular No. RD 55 LRM 72 dt 31.5.'72 for guidance and use of all Tahsildars. Action to be taken by the Tahsildar where a person fails to file a declaration is indicated below : -

(i) Surplus land cannot be determined without the declaration filed under Sec.66(1) or (2) as such determination, for instance may be based on the size of the family presumed necessarily to consist of only five members and consequently a lower ceiling than what is admissible under the law may be imposed. Therefore, where a person on whom notice under Sec.66 (2). has been actually servel fails to file a declaration, he may be warned finally that if he ignores the final notice, in addition to compelling him to file the required declaration, penal action would be taken against him under sub-section (2) of Sec.125, which provides for fine which may extend to five hundred rupees with an additional fine which may extend to ten rupees for every day after the first conviction, during which the offence continues.

(ii) But before so doing, the Tahsildar would be well-advised if he reviews the land records once again to satisfy himself that he has reason (based on land records) to believe that such person holds lands which exceed the ceiling limit specified in Section 63 or 64. If on such review, the Tahsildar is satisfied that the total holding of the person does not exceed the ceiling limit, the notice may be withdrawn, to avoid frivolous litigation.

REGISTRATION AND DISPOSAL OF DECLARATIONS UNDER SECTION8

2. Instructions have been issued in Government letter No.RD 5 dt.31.5.'72 regarding proper filling up of declarations filed under Section 81-A. Action to be taken by the Tahsildars on these declarations is explained below : -

(i) To ensure that the declarations are promptly verified as per sub-rules (3) and (4) of Rule 27 and action taken as per Section 81A(3) and Section 82, the declarations should be registered in a suitable register. A form of Special Register is given in Annexure – I.

(ii) Thereafter those declarations may be got verified on the following among other points : -

(a) Is the transferee a non-agriculturist? If so , report to the Assistant Commissioner under Sec.82.

(b) Was there a tenant on such land and if so was he given first option to purchase it? If not ,report to the Assistant Commissioner under Sec.82.

(c) Whether the total extent of land of the transferee is likely to exceed the ceiling area by the addition of the land now acquired. If so, proceed against the transferee under Sec.66(2).

(d) Whether the transferor has parted with the land with a view to evade the ceiling limit. If so , find out whether he has filed a declaration under the Sec.66(1) and proceed to take action on it ignoring the transfer as provide in Sec.66(6a) or take action under Section 64. If he has not filed any declaration, proceed against him under the Sec.66(2).

(iii) There is a penalty for filing a false declaration vide sub-section (2B) of Section 125 , resort to which may be had wherever necessary.

ACTION UNDER THE CHAPTER VI OF THE MYSORE LSND REFORMS ACT.

5. It appears that several cases of uncultivated lands are not reported to the Assistant Commissioner . It may be that the provisions for cultivation of uncultivated lands contained in Chapter VI of the Mysore Land Reforms act have not been properly understood by the Revenue Inspectors and Village Officers. The Tahsildars should regularly review the work done by them in this respect and take action to report the cases to the Assistant Commissioner under Sections 84 and 85.

Circular Number RD 41 LRM 71

Date 04/03/74

Section Land Reforms

Subject Illegal transactions of sale of agricultural lands in and around big cities in the State –Detection of –

Body GOVERNMENT OF KARNATAKA

NO.RD 41 LRM 71 Karnataka Government Secretariat,

CIRCULAR

Sub :- Illegal transactions of sale of agricultural lands in and around big cities in the State –Detection of –

With the repealing of the Karnataka Agricultural Lands (Prohibition of Alienation) Act, 1973, with effect from 26.3.974,a large number of cases involving transfer of agricultural lands in and around big cities, like Bangalore are taking place. It has to be ensured that these transactions are not in contravention of the provisions of the Land Reforms Law.

Under Section 81-A of the Karnataka Land Reforms Act,1961 as amended upto date, for registering a document relating to the transfer of agricultural land, the condition precedent is that the document to be registered should be presented with a declaration in writing in duplicate in the prescribed Form, by the transferee before the registering authority under the Indian Registration Act,1908 indicating the total extent of land held by him as also his assured annual income. The Registering authority has to forward one copy of the declaration to the prescribed officer (Tahsildar) and the Tahsildar has to take further action to verify if there has been any contravention of any of the provisions of the Act in any particular case and take further action under the Law.

The new provisions contained in Sections79A, 79B, 79C and amended provisions in Sections 80, 81, and81A may specifically be brought to the Notice of the Tahsildars/ Assistant Commissioners and they may be instructed to find out the cases of transfers of land which contravene these sections. The Assistant Commissioners may issue notices to the persons involved in the illegal transactions asking them why the transactions should not be declared as 'Null and Void' under Section 83.

Immediate action in this behalf is necessary in order to curb large scale illegal transactions especially in and around big cities.

Sl No 5

Circular Number RD 136 LRM 74

Date 07/18/74
Section Land Reforms
Subject List of potential holders of land – Preparation of – for facilitating detection of suppressed surplus holdings
Body GOVERNMENT OF KARNATAKA
No.RD 136 LRM 74 Karnataka Government Secretariat,
"Vidhana Soudha"
Bangalore : Dt: 18-07-1974.

C I R C U L A R

Sub: List of potential holders of land – Preparation of – for facilitating detection of suppressed surplus holdings.

Instructions were issued in circular No.RD 107 LRM 72 dated 17.07.1972 detailing the measures required to be taken by the Tahsildars in detarnalining the surplus land (i.e. in excess of the ceiling) under the then prevalent Land he forms Law. The law has since be substantially amended with effect from 1.3.1974. The law particularly with regard to the ceiling limit. As against the then ceiling limit ranging from 27 acres of 1st class of land to 216 acres of VIIth class of land for a person or a family, the ceiling limit now prescribed under the amende 1 law is 10 acress of 'A' class of Land Reforms Act as amended by the Ordinance promulgated on 29.5.1974, the time for filing the declarations has been extended by 90 days. That Ordinance also provides for the declarations being filed by persons owning.
i) 10 acres or more of lands having facilities for irrigation from a source of water belonging to the State Government; or
ii) 20 acress or more of lands having facilities for irrigation from a source of water belonging to the State Government; or
iii) 40 acress or more of lands classified as dry but not having any irrigation facilities from a source of water belonging to the State Government;
and also of declaring that where a person holds more than one category of land, the extent held by him shall be converted into a single category on the basis of the following equivalence, namely

a) one acre of land referred to in category (i),
b) being equal to two acres of land referred to in category (ii)
c) being equal to four acres of land referred to in category (iii),

Section 79-A prohibits acquit station of and by persons who have an assured annual non-agricultural income of Rs.12,000/-. Where such persons acquire lands in contravention of the provision, or acquire land by bequest or inheritances they have to furnish to the Tahsildar a declaration within 90 days from the date of acquisition.

Section 79-B prohibits holding of agricultural lands by Companies Co-operative Societies etc. With effect from 1.3.1974. Such institutions were required to furnish declaration of their holding to the Tahsildar. They're 90 days from 1.3.1974.

For furnishing the declarations contemplated in Sec.66, 79-A and 79-B Forms 11, 12 and 13 respectively have been proscribed under the Karnataka Land reforms rules. 197 = and the Director, Printing, Stationery and Publications, Bangalore has been requested to supply the required number of copies to all the Tahsildars for distribution to the intending declarants. The Tahsildars have to obtain on indent from the Government Press, Bangalore sufficient number of copies and issue them sparingly to the genuine declarants taking care to see that they are not misused.

The reduced ceiling is to be applied from 24.1.1971-vide Section 63(10) (ii). Penalties for failure to furnish declarations are as provided in Sections 66-A and 79-c and the Tahsildars have been armed with full powers in levying these penalties.

On furnishing of the declarations, the Tahsildars have to verify the particulars with reference to the Record or highs and other documents produced if any and satisfy that they are in order.

Section 66(2) empowers Tahsildar to issue notice to any person who, he has reason to believe, holds land or resides within his jurisdiction to furnish to him a declaration of a lands held by him and it shall be the duty of such person to furnish the declaration. For facilitating taking this step, it is necessary for the Tahsildars to prepare and keep a list of persons holding land in excess of the limits specified in the Sec. 66 as amended by this ordinance in their taluks ready. The Tahsildars should be instructed accordingly to prepare such lists with reference to the Revenue Records such as Index of Lands, Khata etc.

The instructions already conveyed in the past hold good with the modifications indicated above.

Unless proper verification is exercised by the Tahsildars the surplus land expected by Government to be available for redistribution under the law would dwindle down. The Divisional Commissioners/Deputy Commissioners may make it a point to touch this aspect of the law particularly during their inspection of Taluk Office.

Sl No 6

Circular Number RD 181 LRM 74

Date 08/04/74

Section Land Reforms

Subject Alienation of Agricultural lands- prohibited – under Karnataka Land Reforms Act, 1961

Body GOVERNMENT OF KARNATAKA
No. RD 181 LRM 74 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated August 1974.

C I R C U L A R

Sub : Alienation of Agricultural lands- prohibited – under Karnataka Land Reforms Act, 1961.

All lands held by or in possession of tenants as on 1-3-74 other than those held by them under leases permitted under Sec.5 of the Karnataka Land Reforms Act 1961 have stood transferred to and vested in Government from 1-3-1974. All right, title and interest vesting in the owners of such lands and other persons interested in such lands, have ceased; and these are vested absolutely in the State Government free from all encumbrances (Sec. 44). These lands will ultimately be given to the tenants under the procedure laid down for the registration of tenants as occupants. There is an interval between devestment of the ex-land-lord and the registration of the ex-tenant. It is clear that during this interval neither the ex-landlord nor the ex-tenant (or sub-tenant) in actual occupation of the land, has any right of transfer of such land.

There are various ways in which lands become vested in Government under the Land Reforms Law. For instance lands in excess of the ceiling come to Government after the fulfillment of the due procedure. Disposal of all such lands is provided for under Sec. 77.

If a tenant holding land from a date prior to 1-3-74 is not entitled to be registered as an occupant or his right to become occupant becomes in-effective, such land will be brought under the surplus land pool and disposed of under Sec.77 (Sec. 59). When a tenant registered as an occupant fails to cultivate the land personally for three consecutive years he is to be evicted and the land is to be disposed of under Sec. 77 (Sec. 60).

Where a tenant has become occupant of a land, under the Land Reforms Act, he is prohibited from transferring such land for a period of six years from the date of issue of certificate under Sec. 55 by the Tahsildar. If such tenant desires to give up personal cultivation of the land of which he has been registered as an occupant, within six years of registration, he has to surrender such land to Government and get refund of the amount paid therefore under Sec. 72.

All the above provisions which mainly relate to the lands under lease as on 1-3-1974 and which have vested of will vest in Government should be specifically brought to the notice of the landlords and tenants by publicity at village level through all possible local media including Village Panchayats, Block Development Offices, Agricultural Extension Centers etc.

Chapter V of the Land Reforms Act contains the various restrictions on the holding or transfer of agricultural lands. Those who are specifically barred from holding agricultural lands are indicated below-

1. Non-cultivating persons.

2. Institutions not covered by Sec. 63 (7)
3. Companies
4. Associations or other Bodies
5. Co-operative Societies other than Co-operative forms

Persons having more than Rs. 12,000/- annual assured income from sources other than agriculture are barred from acquiring land after 1-3-1974.

Sec. 80 specifically bars sales of agricultural lands to non-agriculturists. Where lands under self-occupation are within the ceiling area fixed under Section 66 they can be transferred to someone who is entitled to hold it or acquire it, under the provisions mentioned above. If the transferee is an agriculturist who is a self-cultivator he must be one holding less than the ceiling area. Even so the transfer can only take place provided the purchaser's holding after the purchase does not exceed the ceiling area. Even future acquisition of land by way of inheritance, bequest etc. by a person already holding land up to the ceiling limit on 1-3-1974 is prohibited by Section 64. Lands so acquired are to be declared and surrendered to Government.

The Assistant Commissioner of the Sub-division is the authority empowered to enquire into illegal transactions under the Land Reforms Act and make a declaration that any particular transaction is in contravention of the provisions of the provisions of the Act, on such declaration the transaction shall be null and void and the land in respect of which such transaction has taken place shall be forfeited to and vest in the State Government. No amount shall be payable therefore.

From 1-3-1974 restrictions on alienation of holdings by persons owning land in excess of the ceiling limit fixed under the Karnataka Land Reforms (Amendment) Act, 1973 have come into operator and any alienation which prima face appears to be in contravention of the Land Reforms Law has to be dealt with under Sec. 83.

Penalties for the various offences under the Law are provided in Sec. 125 of the said Act.

All the Village Accountants and the local Revenue Officers should be suitably educated by the Tahsildars on these provisions of the Land Reforms Act and they in turn should be asked to a devise the Agriculturists appropriately.

It is necessary to ensure that agriculturists and others do not involve themselves in illegal transactions relating to agricultural land. It will be appreciated that such transactions invite heavy penalties. Prospective purchasers may be warned that they become party to illegal transactions. Wide dissemination of the provisions mentioned above is essential to save innocent parties from the dire consequences of ignorance of the new provisions of the Land Reforms Law.

(N.B.Sakharadande)

Sl No 7

Circular Number RD 212 LRM 74

Date 08/28/74

Section Land Reforms

Subject Land held by institutions etc., which are prohibited from holding lands under the Karnataka Land Reforms Act

Body GOVERNMENT OF KARNATAKA
No. RD 212 LRM 74 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, Dt : 28th August 1974.
C I R C U L A R

Sub : - Land held by institutions etc., which are prohibited from holding lands under the Karnataka Land Reforms Act.

Sections 79B and 79C of the Karnataka Land Reforms Act read as follows:

79B. PROHIBITION OF HOLDING AGRICULTURAL LAND BY CERTAI IT PERSONS – (1) With effect on and form the date of commencement of the Amendment Act, except as otherwise provided in this Act, --

(a) No person other than a person cultivating land personally shall be entitled to hold land; and
(b) it shall not be lawful for,
(i) an educational, religious or charitable institution or society or trust, other than an institution or society or trust, other than an institution or society of referred to in sub-section (7) of Section 63 capable of holding property;
(ii) a company;
(iii) an association or other body of individuals not being a joint family, whether incorporated or not, or
(iv) a co-operative society other than a co-operative form
to hold any land.
(2) Every such institution, society, trust, company, association body or co-operative society, --
(a) which holds lands on the date of the commencement of the Amendment Act and which is disentitled to hod lands under sub-section (1), shall, within ninety days from the said date, furnish to the Tahsildar within whose jurisdiction the greater part of such land is situated a declaration containing the particulars of such land and such other particulars as may be prescribed; and
(b) which acquires such land after the said date shall also furnish a similar declaration within the prescribed period.
(3) The Tahsildar shall on receipt of the declaration under sub—section (2) and after such enquiry as may be prescribed, send a statement containing the prescribed

particulars relating to such land to the Deputy Commissioner who shall, by notification, declare that such land shall vest in the State Government free from all encumbrances and take possession thereof in the prescribed manner.
(4) In respect of the land vesting in the State Government under this section an amount as specified in section 72 shall be paid.
EXPLANATION. – For purposes of this section it shall be presumed that a land is held by an institution, trust , company, association or body where it is held by an individual or its behalf.
79C. PENALTY FOR FAILURE TO FURNISH DECLARATION.---
(1) under Section 79A or section 79B or furnishes a declaration knowing or having the Tahsildar shall issue a notice in the to such person to show cause within fifteen ……… why the penalty specified in the notice, which may extend to five hundred rupees, may not be imposed upon such persons.
(2) if the Tahsildar on considering the reply, if any filled, is satisfied that the person had failed to furnish the declaration without reasonable cause or had filed it, knowing or having reason without reasonable cause or had filed it, knowing or having reason to believe, it to be false, he may, by order, impose the penalty and also require such person to furnish within a period of one month from the date of the order a true and correct declaration complete in all particulars.
(3) If the person fails to comply with such order, his right, title and interest in the land concerned shall as penalty, be forfeited to and vest in the State Government.

2. It will be seen therefore that educational, religious or charitable institutions or societies or societies or trusts, other than an institution or society or trust referred to in sub-section (7) of Section 63 capable of holding property, a company, an association or other body of individuals not being a joint family, whether incorporated or not, or a co-operative society other than a co-operative farm, cannot hold agricultural land after 1-3-1974 on which date the Amendment Act came into force. Institutions, Societies, Trusts, Companies, Associations bodies of individuals or Co-operative Societies disentitled to hold land under sec. 79B and which held agricultural land after 1-3-1974 are required to furnish declarations in From 13 prescribed under the Karnataka Land Reform Rules published in the Gazette Extraordinary dated 19th April 1974. These declarations had to be filed within 90 days from 1-3-1974. If such a show cause notice in From 14 specifying the penalty (not exceeding Rs. 500) which the Tahsildar proposes to impose and after considering the reply, the Tahsildar proposes to imposing the penalty, require the person concerned to furnish the declaration within the month from the date of the order.
3. The Tahsildars may be instructed to list out the institutions, associations, societies, etc., which are required to furnish declarations under Section 79B, verify whether the declarations have been furnished and in all cases of default, start further proceedings by issue of a show cause notice in Form 14.
4. In respect of Trusts which claim to come within sub-scion 7 of Section 63, the person in charge may be advised to approach the Divisional Commissioner to make a declaration that the income from the land is solely used for educational, religious or charitable purpose. Action in such cases may be stayed on production of evidence that an application for such declaration by the Divisional Commissioner has been made.

5. Show cause notices should not be issued to the institutions which have obtained orders staying of the operation of Sections 79B and 79C. The stay orders received form the High Court in the Secretariat have all been communicated to the respective Deputy Commissioners. The Deputy Commissioners and Tahsildars will verify whether any stay orders have been received in their offices from the High Court direct and take care to see that show cause notices are not issued in such cases, as issue of notices where there is stay would amount to contempt of court.

(N.B.Sakharadande)

Sl No 8

Circular Number RD 339 LRM 74

Date 12/24/74

Section Land Reforms

Subject Inquiry regarding illegal transactions regarding

Body GOVERNMENT OF KARNATAKA
No. RD 339 LRM 74 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, Dated: 24th December 1974.
C I R C U L A R

Sub: Inquiry regarding illegal transactions regarding.

Under Section 83 of the Karnataka Land Reforms Act, 1961, the prescribed authority shall, after a summary inquiry, determine whether the transaction reported to it under section 82 or coming to its notice in any other manner is in declaration of the provisions of this act, and make a declaration accordingly. Any transaction so declared to be in contravention of any of the provisions of this act shall be NULL AND VOID. But it has been brought to the notice of the Government that some of the Assistant Commissioners functioning as "prescribed authority" enter Section 83 are dismissing complaints preferred before them by private persons about the transactions contravening Section 80 of the Land Reforms Act on the ground that the persons who preferred the complaint have failed to appear and prosecute the application. This procedure is not correct. The prescribed authority has to take action on the basis of any information received by it form any source and it cannot dismiss the complaints and close the proceedings on the ground that the complaints has defaulted to put in appearance. When once the Assistant Commissioner has received information from any source that a particular transaction contravenes the provisions of the Land Reforms Act, the proceedings can be closed only after he has examined the merits of the case and come to the conclusion either that the transaction is 'null and void' being in contravention of the provisions of the Act or that there has been no contravention of the provisions of the Act. After the amendment of Section 83 which has come into force on 01.03.1974, all land involved in Transactions and declared as null and void by the prescribed authority shall be forfeited to and vest in Government. Hence, it is the Government which is ultimately interested in getting the transaction declared as null and void.

(N.B.Sakharadande)

Sl No 11

Circular Number RD 337 LRM 74

Date 03/06/75

Section Land Reforms

Subject Scrutiny of Declarations filed under Section 66 of the Karnataka
Land Reforms Act, 1961-Guidelines for

Body **GOVERNMENT OF KARNATAKA**
REVENUE DEPARTMENT
CIRCULAR
N. RD 337 LRM 74, Bangalore, dated 6th March 1975
Scrutiny of Declarations filed under Section 66 of the Karnataka
Land Reforms Act, 1961-Guidelines for
1. The time allowed for filing declarations under Section 66 of the Land Reforms Act, expired on the 31st December 1974. The Tahsildars have to take up the scrutiny of the declarations already filed. The first stage of the scrutiny will consist of determination of the class to which each of the lands held by the declarant belongs. The Land Reforms Act classifies the lands into 4 classes, **biz.,** A, B, C and D. A and B classes comprise lands having irrigational facilities from a Government source and only the lands irrigated by

Sources notified by Government source and only the lands irrigated by Sources notified by Government as coming under A or B will qualify for inclusion in the respective class. C class of lands comprise lands irrigated from Government sources other than those notified as coming under A and B and also rain-fed lands on which paddy can be grown or areca is grown. The Tahsildars should note that C class being a residuary class, there will be no notification of the irrigation sources coming under C class. If a land is shown as irrigated from a Government source and such source does not appear in the lists of works notified by Government as coming under A and B, the land has to be deemed to come under C class.

2. A, B and C classes of lands are subject to two ceiling limits depending on whether classification of the land is 8 annas or more or below 8 annas. Classification of the land can easily be worked out by comparing the actual rate assessment levied on the land with the standard rate for the village. Standard rate is the rate for land 16 annas classification. The actual rate of assessment on any land is got by reducing the standard rate proportionate to the classification of the land. Thus, if the standard rate is Rs. 10 per acre and the land classification is 10 annas, the rate of assessment of the particular land will be Rs. 6-25 Paise per acre. As a rule of thumb, all lands whose assessment per acre is less than 50 per cent of the standard rate, will have classification below 8 annas and will those whose rate of assessment is 50 per cent or above the standard rate, will have classification of not less than 8 annas. The standard rates for dry, wet and garden lands in respect of each village are noted at he top of each page of the Akarband prepared at the time of the revised settlement introduced in 1965. All that the Tahsildar has to do is to compare the standard rate applicable with the actual rate of assessment levied on the land in question and decide whether the classification of the land is 8 annas or more or less than 8 annas. Even in respect of areas where a fresh revision settlement has been ordered the classification of the land is not going to vary as the old soil classification itself has been adopted. So, the Akarbands prepared for 1965 for these areas also can be looked into to determine the valuation of the land though these revised assessments have not been brought into force.

3. The Akarbands also provide information as to whether the land has irrigation facilities and if so, from what source. The field work connected with the revision settlement was done between 1954 and 1965. The Akarbands will indicate the source of irrigation, if any, on the basis of the state of affairs at the time the field work was done. The Tahsildars should, therefore, ascertain from the Assistant Engineer having jurisdiction over their Taluks particulars of the irrigation works newly constructed subsequent to 1954 and the lands denefited by them and then take further action. The Akarbands are sufficient authority regarding the source of irrigation in respect of lands which had facilities for irrigation from a Government source prior to 1954.

4. A 'family' is the unit for the imposition of ceiling on land holding. The Tahsildars should carefully study the definition of 'family' given in clause (12) of Section 2 (A). The most important point that should be noted in this connection is that the family, as defined in the Land Reforms Act, is not the natural family, i.e., husband and wife and all the children as is commonly understood when the term 'family' is used. The Tahsildars should note that under the Land Reforms Act, a minor son or an unmarried daughter cannot normaly constitute a separate family unless he or she has no minor brothers or unmarried sisters. All the unmarried daughters and all the minor sons whose parents are both deceased, constitute a single family. If a declaration is filed on behalf of a minor male or an unmarried female, further enquiries will have to be made to ascertain whether there are no other persons who will have to be clubbed together to make up

the 'family' to which the declarant belongs.
It is hereby clarified for the information of the Revenue Officers that any person who has completed 18 years is a major unless his person or property is under guardian appointed by a Court or under the Court of Wasds, in which one, he becomes major on attaining 21 years.
5. In some cases, it is likely that a separate declaration would be made on behalf of a minor on the ground that the Khata has been made in his name. Irrespective of the position in land records, the lands held by the other members of the family to which he is deemed to belong under the Land Reforms Act.
6. The total extent of land held by a family will be the aggregate of the holdings of the individual members who constitute the family. It would, therefore, be convenient to work out first the land held or deemed to be held by each person constituting the family and then to compute the aggregate held by the family. An individual can hold land under the following titles :
(i) separate property, i.e., land acquired by him out of his own funds, normally called as "self-acquired property" and property got through Will Gift, or Intestate Succession from a person who is not a member of the same family as the person concerned; and 'Stridhana' of a woman,
(ii) share of the joint family property,
(iii) the land held on behalf of the person in a Trust in respect of which there is no finding by the prescribed officer that it is a public trust formed for educational or religious or charitable purposes and that its income is solely used for the institution or the trust,
(iv) his share of the lands in a co-operative farming society.
7. Normally, there would be no difficulty in regard to the separate property which will include property purchased as well as the property got through a Will or Gift or by Intestate Succession from persons not belonging to the same joint family as the person concerned. In these cases, the actual khata will normally be made in the name of the individual concerned or there will be adequate material to show that he is entitled to hold the lands and there should not be any complications in working out these extents.
8. Under Section 63- (4), the share of each individual in the joint family kproperty has to be worked out on the basis that there was a partition of lands held by the joint family. The term 'joint family used in the Land Reforms Act is not synonymous with the Hindu Undivided Family. The term is of much wider significance and includes any family in which the property is held jointly by the several persons constituting the family as tenants-in-common. In a Hindu Undivided Family or in any other joint family, which is governed by the Hindu Law of Coparcenary Succession, the shares of each individual will have to be worked out on the basis that there was partition on 1st March 1974 when the new Amendment to the Land Reforms Act came into effect.

9. In the areas which formed part of the old State of Mysore as it stood prior to 2nd October 1953, the Hindu Law Women's Rights Act of 1933 (Act No. X of 1933) is applicable and Section 8 of this Act which declares certain females to be entitled to shares at partition, is reproduced below:
"8. (1) (a) At a partition on joint family property between a person and his son or sons, his mother, his unmarried daughters and the widows and unmarried daughters of his predeceased undivided sons and brothers who have left no male issue shall be entitled to share with them.
(b) At a partition of joint family property among brothers their mother, their unmarried

sisters and the widows and unmarried daughters of their predeceased undivided brothers who have left no male issue shall be entitled to share with them.
(c) Sub-sections (a) and (b) shall also apply muta is mutandis to a partition among other co-parceners in a joint family.
(d) Where joint family property process to a single co-parcener by survivorship, it shall so pass subject to the right to shares of the classes of females enumerated in the above sub-sections.
(2) Such share shall be fixed as follows : -
(a) in the case of the window, one-half what her husband, if he were alive, would receive as his share;
(b) in the case of the mother, one-half of the share of a son if she has a son alive, and, in any other case, one-half of what her husband, if he were alive, would receive as his share;
(c) in the case of every unmarried daughter or sister, one-further of the share of a brother if she has a brother alive, and, in any other case, one-fourth of what her father, if he were alive, would receive as his share; provided that the share to which a daughter or sister is entitled under this section shall be inclusive of, and not in addition to, the legitimate expenses of her marriage including a reasonable dowry or marriage portion.
(3) In this section, the term 'window' includes, where there are more widows than one of the same person all of them jointly, and the term 'mother' includes a step-mother and, where there are both a mother and a step-mother, all of them jointly and term 'son' includes a step-son as also a grandson and a great grandson; and the provisions of this section relating to the mother shall be applicable mutatis mutandis to the paternal grand-mother and great grand-mother.
(4) Fractional shares of the females as fixed above shall relate to the share of the husband, son, father or brother as the case may be and their value shall be ascertained by treating one share as allotted to the male and assigning therefrom the proper fractional shares to the female relatives.
(5) Each of the female relatives referred to in sub-section (1) shall be entitled to have her share separated off and placed in her possession :
Provided always as follows : -
(i) No female relative shall be entitled to a share in property acquired by a person and referred to in section 6, so long as he is alive;
(ii) No female whose husband or father is alive shall be entitled to demand a partition as against such husband or father as the case may be ;
(iii) A female entitled to a share in any property in one capacity of relationship shall not be entitled to claim a further or additional share in the same property in any other capacity.
Illustration. – A and his son B effect a partition of their family property. A has a mother and two unmarried daughters. Their shares will be as follows : -
Father
Son
Mother
Two daughters
The property will be divided in the above proportion, the father getting 1/3, the son 1/3, the mother 1/6 and each daughter 1/12."
In effecting a national partition, shares will have to be allotted to these female members of the family, in addition to the male co-parceners constituting the joint family.
10. In the other areas of the State, the law of Mitakshara Succession, under which only

male co-parceners can get shares, continues to be applicalbe to partition of joint family property. However, if any male co-parcener has died on or after 17th June 1956, the share in the joint family property which he would have got if there had been a partition immediately before his death would have to be allotted as per sections 6 and 8 to 13 of the Hindu Succession Act 1956 (Central Act No. 30 of 1956). These Sections read as follows:

"6. When a male Hindu dies after the commencement of this Act, having at the time of his death an interest in a Mitakshara co-parcenary property, his interest in the property shall devolve by survivorship upon the surviving members of the co-parcenary and not in accordance with this Act :

Provided that, if the deceased had left his surviving a female relative specified in class 1 of the Schedule or a male relative specified in that class who claims through such female relative, the interest of the deceased in the Mitakshara co-parcenary property shall devolve by testamentary or intestate succession, as the case may be, under this Act and not by survivorship.

Explanation 1.- For the purposes of this section, the interest of a Hindu Mitakshara co-operator shall be deemed to be the share in the property that would have been allotted to him if a partition of the property had taken place immediately before his death, irrespective of whether he was entitled to claim partition or not.

Explanation 2.- Nothing contained in the proviso to this section shall be contrued as enabling a person who has separated himself from the co-parcenary before the death of the deceased or any of his heirs to claim on intestacy a share in the interest referred to therein.

7. * * * * *

8. The property of a male Hindu dying intestate shall devolve according to the provisions of this Chapter : -

(a) firstly, upon the heirs, being the relatives specified in class 1 of the Schedule;

(b) secondly, if there is no heir of class I, then upon the heirs, being the relatives specified in class II of the Schedule ;

(c) thirdly, if there is no heir of any of the two classes, then upon the agnates of the deceased ; and

(d) lastly, if there is no agnate, then upon the cognates of the deceased.

9. Among the heirs specified in the Schedule, those in class I shall take simultaneously and to the exclusion of all other heirs; those in the first entry in class II shall be preferred to those in the second entry; those in the second entry shall be preferred to those in the third entry; and so on in succession.

10. The property of an intestate shall be divided among the heirs in class I of the Schedule in accordance with the following rules : -

Rule 1.- The intestate's widow, or if there are more widows than one, all the widows together shall take one share.

Rule 2.- The surviving sons and daughters and the mother of the intestate shall each take one share.

Rule 3.- The heirs in the branch of each pre-deceased son or each pre-deceased daughter of the intestate shall take between then one share.

Rule 4.- The distribution of the share referred to in Rule 3-

(1) among the heirs in the branch of the pre-deceased son shall be so made that his widow (or widows together) and the surviving sons and daughters get equal portions; and the branch of his pre-deceased sons gets the same portion;

(ii) among the heirs in the branch of the pre-deceased daughter shall be so made that

the surviving sons and daughters get equal portions.
11. The property of an intestate shall be divided between the heirs specified in any one entry in class II of the Schedule so that they share equally.
12. The order of succession among agnates or cognates, as the case may be, shall be determined in accordance with the rules of preference laid down hereunder : -
Rule 1. - Of tow heirs, the one who has fewer or no degrees of ascent is preferred.
Rule 2. - Where the number of degrees of ascent is the same or none that heir is preferred who has fewer or no degrees of descent.
Rule 3. - Where neither heir is entitled to be preferred to the other under Rule 1 or Rule 2 they take simultaneously.
13. (1) For the purposes of determining the order of succession among agnates or cognates, relationship shall be reckoned from the intestate to the heirs in terms of degrees of ascent or degrees of descent or both, as the case may be.
(2) Degree of assent and degrees of descent shall be computed inclusive of the intestate.
(3) Every generation constitutes a degree either ascending or descending.
The share of a co-parcener who died on or after 17th June 1956 will have to be allotted under Sections 6 and 8 to 13 of the Hindu Succession Act, 1956, even in the areas which formed part of the former State of Mysore upto 2nd October 1953.
11. Mitakshara law of succession applies to all Hindus all over the State, including Buddhists, Jains, Sikhs and Veerasaivas. However, in South Kanara District, the Bunts Billawas and Jains are governed by the Aliyasantana law.
After the 1961 amendment to the Madras Aliyasanthana Act, 1949 if a partition is to be effected of the joint family property each member of the family (both male and female) will be entitled to an equal per capita share i.e., if there are 10 members in a joint family each will be entitled to an equal share. For the purposes of ascertaining the extent of land held by an individual his share if any in the joint family of which he is an undivided member has to be worked out as per Section 63 (4) as if there is a partition in the family on the date on which the 1974 amended Land Reforms Act came into force and his share in the family property (Aliyasanathana family) has to be worked out is the manner indicated above."
12. In families governed by the Mitakshara law of succession, a married daughter cannot get a share of the co-parcenery property of her father's family, if the Father is alive. Similarly, the wife of a co-parcener cannot get a share if such co-parcener is alive. In the Districts of Bangalore, Kolar, Tumkur, Chitradurga, Shimoga, Chikmagalur, Hassan, Mandya and Mysore excluding Kollegal Taluk, an unmarried daughter gets a share in the co-parcenery property, equal to ¼ of the share of her brother. The CutchiMenons are also governed by the Mitakshara law of succession.
13. Under the Hindu law, even separate self-acquired property of a co-parcener can be invested with the nature of co-parecenary propery by throwing it into the common stock. If the person who acquired the property declares that he has thrown it into the common stock, such property too has to be included in the joint family property while effecting a notional partition.
14. The term 'Joint Family' as defined in clause (17) of Section 2 (A) means, in the case of persons governed by Hindu Law; an undivided Hindu family and in the case of others a group or unit the members of which are by custom joint in estate or residence.
15. How much land a person or family is entitled to hold has been stated in sub-section (1) of Section 63. As defined in the Karnataka Land Revenue Act, 1964 'to hold land' or 'holder' means, to be in lawful possession of land either actually or constructively. If a major member of a family other than a joint Hindu Family can be said to be a holder as

defined in the Land Revenue Act, he will be entitled to hold land to the extent of a ceiling area.
16. Section 63 (5) of the Land Reforms Act lays down that the lands held by a private Trust shall de deemed to be held by the author of the Trust or his successor in interest if the Trust is revok-able and in other cases by the beneficiaries of the Trust in proportion to their respective interests in such Trust or in the income derived therefrom. So, in respect of Trusts other than those of which a declaration is obtained under Section 63 (7) (b) the Tahsildar will have to determine the beneficiares from the Trust, if the Trust irrevokable and assign the land to the respective beneficiaries in the same proportion in which they share the income. If the Trust is revokable, the lands held by the Trust will have to be added to the holdings of the author of the Trust or his successor in interest.
17. The provisions of Section 79-b and 79-c will not apply to lands held by C0-operative Farms which satisfy the definition of the "co-operative Farm" in the Act and which are governed by Chapter VII of the Act. However, the land held by the Co-operative Farming Society will have to be distributed among the members in the proportion in which they hold shares in the Society and the lands which each member gets during such distribution will have to be added to the other landed property of such member worked out in the manner indicated above .
18. After working out the total extent of land held by each member of the family under the 4 heads indicated above, the Tahsildar will proceed to work out the total land held by each member of the family and if the aggregate for the family exceeds the extent of 54 acres of D class or its equivalent, in cases where the total number of members in the family does not exceed 5 and the extent permissible with the addition of 2 units for each additional member of the family subject to a maximum of 20 units in respect of families having more than 5 members, the Tahsildar will have to pass a provisional order mentioning the surplus and the manner in which it has been worked out. Such provisional order will have to be served on the declarant asking him to prefer his objections, if any, within the time to be specified (not less than 30 days) and also indicate the land, which he would surrender as surplus. After considering the objections, if any, preferred against the provisional order, the Tahsildar shall pass a final order was passed, the objections preferred, the reasons for either accepting or rejecting the objections preferred by the declarant and the surplus finally determined. The Tahsildars will note that so far as the surrender of the surplus land is concerned, it is open to the declarant to surrender any land of his choice subject only to the condition that where the family property includes streedhana land also the proportion of Stridhana land in the surrendered land shall not be more than the proportion of Stridhana land in the total holding of the family. It would however, be desirable to advise the party to surrender land which is not an enclave in the lands retained by the family but is to one end of the holding so that it may be easily accessible to the persons to whom such land will be allotted under Section 77.
19. Under Section 63 (10) the land transferred otherwise than by partition etc., between 18th November 1961 and 14th January 1971 would have to be added back to determine whether the declarant had to surrender any surplus land under the Land Reforms Act prior to its amendment in 1974. Similarly, if any land has been trans ferred after 24th January 1971 otherwise than by partition or by donation to the Karnataka Bhodan Yagna Board or sale to the tenant of such land in conformity with any law in force at the time, the area so transferred has to be taken into consideration while determining the total holding of the person and the surplus if any, he has to surrender. The only transactions which are exempt are

(i) Partition,
(ii) Transfer to the Karnataka Bhoodan Yagna Board, and
(iii) Sale to the tenant of the land.
(i) Partition can be effected only among persons who are entitled to a share in the property under the personal law applicable. Any transfer to a person other than a coparcener under the Personal Law would in effect be a settlement and not a partition and the land involved in such transfer will have to be added back to the extent left with the family. It is not necessary that the several persons entitled to share at a partition should take only the shares admissible under the law. The respective shares can be altered by agreement among all the persons entitled to shares at a partition of joint family property and such agreement cannot be interfered with as long as every person who is allotted property was entitled to some share at the time of partition under the Personal Law applicable.
(ii) Donation to the Karnataka Bhoodan Yagna Board will have to be supported by adequate evidence that the donation has been accepted by the board.
(iii) Sale to the tenant will be valid only if the tenant was a person recognised as a tenant at the time the sale was made. Except widows, minors, persons suffering form physical or mental disability, soldiers, sailors and small holders, no other person could create a lease in respect of agricultural land after 2nd October 1965 when the Mysore Land Reforms Act of 1961 came into force. Small holders will not normally be liable to submit any declaration of surplus land and in other cases, it has to be established that the lease if entered into after 2nd October 1965 was permissible under Section 5 of the Land Reforms Act as it stood on the date of the lease was entered into. If this is not established, any sale made to a tenant whose tenancy commenced for the first time after 2nd October 1965 will not be valid in law. The land involved in such leases has to be dealt with under Section 58. The date on which the lease under which the Vendee became tenant has to be specifically examined as there amy be instances where persons having surplus lands have disposed of the surplus lands to tenants introduced on the land recently so as to escape from surrendering the surplus land.
20. It should be noted that only land as defined in clause (18) of Section 2 (A) read with clause (1) of Section 2 (A) of the Act will come within the purview of the Land Reforms Act subject to the exemptions enumerated in Sections 107 and 108. Thus, the house sites and land used exclusively for non-agricultural purposes will not constitute land for purposes of the Land Reforms Act. Plantations covered by Section 104 of the Act will also have to be excluded. In same cases deductions has been made from the total extent of a Survey Number or Sub number towards 'phut Kharab'. If deduction has been made on the ground that the extent so deducted in unfit for cultivation, such extent will have to be omitted while computing the extent of land held by the declarant.
21. There are also instances of entire Survey Numbers not having been assessed to land revenue, on the ground that they were not meant to be disposed of for agricultural purposes, but were reserved for specific purposes, such as, Gomal, Tank-bed, Forest, etc. If any portions of such Survey Numbers have been subsequently disposed of for cultivation, the constitute agricultural land, to be included in the holding of the declarant.
22. There may be some stray cases of entire unassessed Survey Numbers of large extents being held by some persons. In such cases, the use to which the land is put and whether the declarant had claimed exemption from Wealth Tax for such land upto 1970 on the ground that it was agricultural land, would be relevant factors in determining whether such land should be treated as agricultural land or as land put to non-

agricultural use. Where the declarant has claimed and been granted exemption from Wealth Tax upto 1970, on the ground that any particular land is agricultural land, such land should be treated as agricultural land to which Land Reforms Act is applicable.
M. A. S. RAJAN,

Sl No 518

Circular Number RD 570 LRM 75

Date 07/26/75

Section Land Reforms

Subject No Subject

Body GOVERNMENT OF KARNATAKA

No. RD 570 LRM 75 Karnataka Government Secretariat,
"Vidhana Soudha"
Bangalore : Dt :26th July 1976

C I R C U L A R

1. It is felt necessary to issue clarification as to the scope and applicability of sub-section (4) of Section 79-A of the Karnataka Land Reforms Act 1961

2. Sub-Section (1) of Section 79-A bars acquisition of lands by any person, family or joint family having an assured annual income of not less than Rs.12,000/- from non-agricultural sources.

3. Sub-section (4) of the said Section requires that any person acquiring land, either in contravention of sub-section (1) or by bequest or inheritance, should furnish certain particulars to the Tahsildars.

4. The said sub-section (4), as the wordings themselves indicate, covers acquisition of land either voluntarily or by bequest or inheritance.

5. The effect of sub-section (4) is : .

(i) where the acquisition is in contravention of sub-section (1), whether the acquisition is by a person or a family or a joint family, the particulars thereof should be furnished by the concerned, though the words 'family' and 'joint family' are not referred to in the said sub-section;

(ii) where the acquisition is by bequest:-

(a) in case the bequest is to an individual or more than one named individual (as is usually the case), the individual or individuals concerned should, if his or their assured annual income from non-agricultural sources is not less than Rs.12,000/- furnish the particulars referred to in this sub-section;

(b) in case the bequest is made in favour of a family or joint family, if the assured annual income from non-agricultural sources of such family or joint family is not less than Rs.12,000/-, should furnish the particulars referred to in this sub-section;

(iii) when the acquisition is by inheritance, the inheritance is always an individual. If the assured annual income of such individual from non-agricultural sources is not less than Rs.12000/- he should also furnish the particulars referred to in this sub-section.

(6) A partition does not amount, in law, to transfer. Hence the question of acquisition on account of partition does not arise and the said sub-section (4) does not come into play. Therefore, in cases of partition, it is not necessary to furnish the particulars under sub-section (4).

Sl No 19

Circular Number RD 305 LRW75

Date 11/10/75

Section Land Reforms

Subject Principles of Natural justice to be followed by the Tribunals in their proceedings-Observations of the High Court on W.P.No.3884/75- Smt. Khatija Bi Vs Shri H.L.Naik and others

Body GOVERNMENT OF KARNATAKA

No. RD 305 LRW 75 Karnataka Government Secretariat,
"Vidhana Soudha"
Bangalore : Dt :10-11-1975

C I R C U L A R

Sub: Principles of Natural justice to be followed by the Tribunals in their proceedings-Observations of the High Court on W.P.No.3884/75- Smt. Khatija Bi Vs Shri H.L.Naik and others.

-:-

The High Court of Karnataka while dismissing the W.P.No.3884 of 1975 filed by Smt. Khatija Bi , Supa Taluk, North Kanara District, have observed that the principles of natural justice are required to be followed by Tribunals while exercising administrative and quasi-judicial powers under the Karnataka Land Reforms Act and the Rules thereunder. The relevant extracts of the judgement of the High Court dated 25.8.1975 on the aforesaid Writ Petition are reproduced for information and guidance of the Assistant Commissioners /Special Assistant Commissioners who function as Chairmen of the Tribunals and the Tahsildars/

Special Tahsildars who function as the Secretaries of the Tribunals.

"Rule" No.16 of Karnataka Land Reforms Rules, 1974 requires that the Chairman has to be present in all meetings of the Tribunal as the quorum prescribed for the meetings of the Tribunal (including adjourned meeting) is there including the Chairman.

The fact that laymen are associated with the decision making process of the Tribunals does not lead to the conclusion that the members of the Tribunals can decide cases without having regard to the principles of fair play and justice. What these principles are, are well settled.

No decision effecting party can be made without giving him notice to show cause why such should not be rendered against him. The party appearing before the Tribunal should be given reasonable opportunity to defend himself and to urge all his contentions . The Tribunal should give reason in support of its order. The members of the tribunal should be free from external influence and their decision should not be based on extraneous considerations. They should not fetter their decision by following self-created policy. The decision should be based on materials placed before them. The members of the Tribunal should not have any bias either in favour or against any party appearing before them. The power should not be exercised by them to achieve any improper purpose or to satisfy any ulterior motive. Bad faith and dishonesty on their part would vitiate a decision of the Tribunal. .If the Tribunals keep before them these principles, then there would be hardly any ground to complain against their decision."
Further the High Court examined the order passed by the Tribunal in the instant case quoted above, with reference to the scope of interference under Article 227 of the Constitution and in the light of para. 8 the Supreme Court decision in BABHUTMAL VS LAXMIBAI (AIR.1975 S.O.1297); and have observed as follows:-

"There is no substance in this writ petition. The 4th respondent claimed before the Tribunal that he should be declared as a tenant on the relevant date of the land mentioned in the order. The petitioner claimed that she was the owner of the land and that the 4th respondent was not entitled to the declaration prayed for by him. The case of the 4th respondent was that he was cultivating the lands in question for about 5 years prior to the date of hearing of the case before the tribunal and that he was cultivating it with the aid of the members of his family. The petitioner however, contended that she had given the lands to the 4th respondent on cooly wages for one year and that she had paid a sum of Rs.1000/- to 4th respondent in advance for his expenditure. She did not produce before the Tribunal any receipt to show that she had advanced Rs.1000/- towards his expenses. On the other hand, she had admitted before the Tribunal that the 4th respondent had satisfied the levy demand and paid the land revenue also. The levy demand is ordinarily satisfied by a person who has grown agricultural crops either as owner or tenant. The petitioner further admitted that she had made use of the bullocks belonging to the petitioner to plough the land. It is no doubt true that in the course of her statement she had stated that she had spent money on the seedlings and it was not true that she was not keeping watch over the field. It is seen from the statement made by the practitioner and the 4th respondent that the 4th respondent was actually working on the land. The only point of difference between the petitioner and the 4th respondent related to the question is whether he was cultivating the land as a cooly or as a tenant .The tribunal on the consideration of the evidence placed before it has held that the 4th respondent was a tenant entitled to the land, and as such there would be no ground for interference under Art.227 of the Constitution. In this case, there is neither any error of jurisdiction nor any other error calling for interference under Article226 also. In the result, this petition fails and it is dismissed."

. (N.B.Sakhardande)

Sl No 518

Circular Number RD 422 LRW 75

Date 11/25/75

Section Land Reforms

Subject No Subject

Body GOVERNMENT OF KARNATAKA

NO . RD 422 LRW 75 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated: 25th November 1975.
C I R C U L A R

It is noticed by Government that some of the Orders passed against tenants by the Tribunals constituted under Land Roforms Act, do not indicate specifically whether the claim of the tenant was verified with reference to the R.T.C entries, spot inspections, local enquiries made with the neighbouring cultivators, tec.

A number of ceases have come to the notice of Government where the tenant is not in a position to produce any documentary evidence to prove that he is a tenant, entitled to be registered as an occupant, although he is the actual cultivator of land in question. In such cases it would be appropriate for the Tribunal to endeavour to collect evidence to substantiate the claim of the tenant by recourse to oral evidence, spot inspections and local enquiries particularly with the actual cultivators of neighbouring fields. If no such evidence is forthcoming, it may be examined whether such a person comes under the category of "deemed tenant" described in section 4 of the Karnataka Land Reforms Act. Before deciding the tenants applications against them, all possible attempts to place on record the evidence collected in favour of the tenants should be made.

The Tribunals order should be a speaking order discussing the evidence collected.
(B.M. Nagaraj)

Sl No 67

Circular Number RD 440 LRM 75

Date 12/27/75

Section Land Reforms

Subject Reservation of lands vesting in Government for Industrial Development

Body GOVERNMENT OF KARNATAKA
No. RD 440 LRM 75 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated: 27th December 1975.
C I R C U L A R

Sub: Reservation of lands vesting in Government for Industrial Development.

In the Circular No .RD 256 LRM 75 dated the 27th August, 1975, it has been mentioned that for the purpose of acquiring and making available land for the development of Industries in the state, the Karnataka Industrial Areas Development Board will prepare a list of lands suitable for industrial development in various parts of the State and thereafter approach the Tahsildar of the Taluk concerned to find out whether some of these in the State Government under the provisions of the Land Reforms Act and are available for reservation for public purposes under Section 77(3) of the said Act. If on verification, it is found that such lands are so available, the Board may approach the Government in the Revenue Department which in turn can take action under the said

Section.

It is emphasised here by that the surrendered or forfeited lands can be reserved only for public purposes (in the present class of cases it would be the felt need of industrialisation). The policy of the Government is normally to make such lands available for distribution among the landless persons and other eligible for distribution among the landless persons and other eligible for distribution among the Landless persons and other eligible categories mentioned in Section 77 of the Land Reforms Act.

Take over of land from persons institutions etc., disentitled to hold the lands (this applies to land-holders who have surplus over the ceiling and also to persons and institutions whose purchases of agricultural land have proved to be illegal) has to be preceded by the stages of surrender/forfeiture and notification of amount payable (in respect of surplus holders), before actual taking over. A decision regarding reservation under Section 77(3) has to be taken in the interval between the stage on acceptance of surrender or declaration on forfeiture, and the stage of vesting in Government. The reservation under Section 77(3) of the Act is ordered, through Government Notification, after the land is vested in the Government.

An order of reservation will be issued only if there is a fully justified case for reservation of the concerned land for a public purpose, on the recommendation of the Director of Industries and Commerce. In making his recommendation the Director of Industries and Commerce will ensure that land is recommended for reservation only if suitable Government land is not available for the same purpose or any other land is not available for the same purpose or any other land is not found suitalble for acquisition under the Land Acquisition Act for the same purpose.

Details of lands surrendered/forfeited to Government may be intimated to the concerned local officers of the Industries Department by the Tahsildars concerned, so that the question whether the land is required in that Department for any public purposes may be considered by that Department with a view to making a recommendation to the Government at the Director's level.

As soon as an order of reservation is issued by the Re3venue Department under Section 77(3) of the Karnataka Land Reforms Act, Government in the Commerce and Industries Department will issue notifications under Section 3(1) of the Karnataka Industrial Areas Development Act in respect of the concerned land. When that is done, the land which would in due course have vested in the Government will be placed at the disposal of the Karnataka Industrial Area Development Board under Section 32(1) of the Karnataka Industrial Area Development Act, 1966, for further action by the Board.
(B.M. Nagaraj)

Sl No 88

Circular Number RD 190 LRM 76

Date 01/18/77

Section Land Reforms

Subject Whether a person cultivating land on Palu or Koru is a tenant entitled to get occupancy rights – Clarification – Regarding –

Body GOVERNMENT OF KARNATAKA
No. RD 190 LRM 76 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated: 18th January 1977.
C I R C U L A R

Sub: Whether a person cultivating land on Palu or Koru is a tenant entitled to get occupancy rights – Clarification – Regarding –

A question has arisen whether a person cultivating the land belonging to some other person on Palu or Koru basis, i.e. where the owner himself provides all the manure, seeds, etc., but the person working on the land gets the produce of the land, either fixed or a share of the crop, can be treated as a tenant.

Cultivation of land on Palu or Koru basis means, the land, belonging to an owner, being cultivated personally by some other person, on an annual payment, of 50% or a fixed share of whatever crop grown on the said land, by such cultivator, to such an owner, irrespective of the fact that the owner himself provides all the manure, seeds, etc., or the actual cultivator himself put the manure and seeds etc.

Where a part of the crop, whether big or small, is given to the cultivating person, he has to be deemed to be a tenant notwithstanding the owner himself providing all the inputs of the cultivation. What is material is whether there is a sharing of the risks of cultivation or of the sharing of the fruits of cultivation. Where either of these is present, the cultivator has to be treated as "deemed tenant".

(B.M.NAGARAJ),

Sl No 93

Circular Number RD 245 LRM 76

Date 03/10/77

Section Land Reforms

Subject Conferring occupancy rights on tenants – Rights of Co-Parceners of a joint family – Clarified

Body GOVERNMENT OF KARNATAKA
No. RD 245 LRM 76 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated: 10th March 1977.
C I R C U L A R

Sub: Conferring occupancy rights on tenants – Rights of Co-Parceners of a joint family – Clarified –

A point has been raised as to when in respect of a tenanted land an application is filed under Sec. 48A of Karnataka Land Reforms Act by one of the surviving members of the family of the deceased tenant, what is the course of action to be taken by the Tribunal for confirming the occupancy rights of that land.

The matter has been examined. It is hereby clarified that if the tenant who died was holding the land as kartha of the joint family, the surviving co-parceners will continue to be tenants. On the other hand if an individual held a land as a tenant in his own right, and if he dies, his tenancy rights will be inherited by his heirs in accordance with the personal law.
(P.Vasudeva Rao),

Sl No 92

Circular Number RD 5 LRM 77

Date 02/28/77

Section Land Reforms

Subject Tenancy dispute before Land Tribunals- effecting of Mutation barred till tenancy is decided by the Tribunal.

Body GOVERNMENT OF KARNATAKA
No. RD 5 LRM 77 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated: 28th February 1977.
C I R C U L A R

Sub: Tenancy dispute before Land Tribunals- effecting of Mutation barred till tenancy is decided by the Tribunal.

The question of making changes in the mutation entries when an application under Sec. 48A is pending before the Tribunal in respect of the same land has been examined. When an application for change of mutation is received, the concerned Revenue officers should first verify whether an application filed by a tenant under Sec. 48A of the Karnataka Land Reforms Act, for confirmation of occupancy rights in respect of the same land, is pending before the Tribunal. If an application under Sec. 48A is pending, then the Revenue Officer concerned must stay the mutation proceedings till such time as the matter is finally decided by the Tribunal and any change in the entries in R.T.C., should be effected only in conformity with the decision given by the Tribunal on the application under Sec. 48A of the Karnataka Land Reforms Act.

(B.M.Nagaraj),

Sl No 518

Circular Number RD 159 LRM 77

Date 09/06/77

Section Land Reforms

Subject Record of Rights – Writing up of R.T.C. Forms – Mutation barred till tenancy is decided by the Tribunal

Body GOVERNMENT OF KARNATAKA
No. RD 159 LRM 77 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated: 6th September 1977.
C I R C U L A R

Sub : Record of Rights – Writing up of R.T.C. Forms – Mutation barred till tenancy is decided by the Tribunal

Ref: 1. No.RD 10 TRR 75 dt. 22nd May 1975.
2. Circular No. RD 5 LRM 77 dt. 28-2-1977.
3. D.C.No.RRT.CR.154/76-77 dt. 19-7-1977.

Government in their letter cited at (1) addressed to the Deputy Commissioner, Dakshina Kannada District with copies to all the Deputy Commissioners have instructed that before making entries in the columns meant to show cultivator's name in the R.T.C., the decision of the Tribunal in respect of that land should be awaited.

In the Circular cited at (2), instructions have been issued that wherever an application under Sec.48A is pending, the Revenue Officer Concerned must stay mutation proceedings till a decision is given by the Tribunal confirming the occupancy right in respect of the land.

The Deputy Commissioner, Dakshina Kannada District in his D.O.letter cited at (3) has requested for instructions regarding making entries in column 11 and 12 of the R.T.C.forms.

Taking into account that writing up of the R.T.C., Forms in Dakshina Kannada District was started for the first time during 1967 that is, after the Land reforms Act came into force in 1975, and the fact that the Record of Rights which have been prepared do not reflect truly the position regarding actual cultivators of the lands in many cases, also considering the fact that the Tribunals have at present been empowered to confirm occupancy right on the tenant, Government have decided that no entries in the cultivator's column meant to show the names of the cultivators should be made in

Record of Right are not very dependable in all cases and if reliance is placed on them, disputes are likely to arise. They will result in parallel proceedings being launched before the Revenue officers regarding the same fact to tenancy.

Wherever an application is filed by a tenant under Sec.48A of the Land Reforms Act for confirmation of occupancy right, proceedings for change of entries (i.e. mutation proceedings) should not be taken by Revenue officers till a decision is given by the Tribunal on the application under Sec.48A. The rival claimants may be asked to approach the Tribunal and await its decision thereof, in regard to the question of actual possession and cultivation of the land.
(B.M. NAGARAJ)

Sl No 108

Circular Number RD 269 LRM 74

Date 07/03/78

Section Land Reforms

Subject Conferment of occupancy rights on persons who have purchased the lands after 1-3-1974 – Further clarifications – issued

Body GOVERNMENT OF KARNATAKA
No. RD 269 LRM 74 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, Dated: 3rd July 1978.
<u>C I R C U L A R</u>

Sub: - Conferment of occupancy rights on persons who have purchased the lands after 1-3-1974 – Further clarifications – issued.

In Government Circular No.RD 269 LRM 76 dt.22-6-1976 it has been stated that the amount paid by the tenants to the landlords after 1-3-1974 cannot be deducted from the compensation.

The matter has been further examined as to what should be done in respect of the purchase price, advanced or instalment paid by the tenant to the land lord before 1-3-1974. Sub-Sec. 4 of Sec. 50 specifically provides that such amounts shall be deemed to be a charge on the land and discharged in the same manner as an encumbrance on such land. Though there is no section which specificially says that the amount so paid and treated as an encumbrance under sub-section 4 of Sec. 50, should be set off against the amount payable by the tenant, under sub-section 7 of Sec.48A read with Sec.43 which lays down how a tenant should pay the premium, such a set off would appear to be the only logical and convenient method to follow.

Therefore in continuation of Government Circular of even number dated 22-6-1976, it is further clarified that where a tenant represents that he has paid the price of the tenanted land or part thereof, and the Special Tahsilder/Tahsilder after due verification is satisfied that such is the case, the amount paid should be brought under Sec. 50 (4) of K.L.R.Act and recovered from the landlord by deduction from the amount payable to him and repaid to the tenant.

(M. Maheswarappa),

Sl No 113

Circular Number RD 303 LRM 79

Date 06/06/79

Section Land Reforms

Subject Land Reforms – Sale of lands by the landlords to the tenants prior to 01.03.1974 and further sale of lands by the tenants to others affecting proceedings u/s 66 – Procedure to be followed Clarification issued

Body GOVERNMENT OF KARNATAKA
No. RD 303 LRM 79 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated: 6th June 1979.
<u>C I R C U L A R</u>

Sub : Land Reforms – Sale of lands by the landlords to the tenants prior to 01.03.1974 and further sale of lands by the tenants to others affecting proceedings u/s 66 – Procedure to be followed Clarification issued-

A point has been raised as to what procedure has to be followed in the cases of transaction wherein the landlords have sold the lands to the tenants earlier to 01.03.1974 and subsequently the tenants have sold the lands to others the procedure having been adopted apparently to circumvent the provisions of Section 66 of the Karnataka Land Reforms Act.

Lands sold to tenants cannot be added back to the holding u/s 63(10) (ii) of the Karnataka land Reforms Act. They are specifically excluded (like land transferred by partition in favour of minors).

However the sales alleged to be made in favour of tenants must be subjected to the test whether they were in conformity with the law in force at the time. If the sales are violative of the law, then they can be ignored. The sales made apparently reference to the provisions of Sec.39 of the Act. One should, for example ask the following questions:-

Was written offer of sale made to the tenants was the reasonable price disputed or undisputed? Was it deposited before the Court? Has the tenant been dispossessed in pursuance of the sale or does he continue on the land dispite the two sales? Is there a 48-A application from him and, if so, what is the Tahsildars and by the Tribunals before determination of surplus in proceedings under sec.67 of the Act.

If the sales are treated as invalid (and if there is no pending application from the tenant) the Tribunal, as a follow-up measure, has to entertain and decide upon the application u/s 48-A from the old tenant.

(H.N.
Ranganathan),

Sl No 118

Circular Number RD 434 LRM 79

Date 10/10/79

Section Land Reforms

Subject Land Reforms - Development – Ceiling surplus land - Regarding

Body GOVERNMENT OF KARNATAKA
No. RD 434 LRM 79 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated: 10th October 1979.
C I R C U L A R

Sub : Land Reforms - Development – Ceiling surplus land - Regarding

In Government Circular No.RD 623 LRM 76 dated 4-11-1976 instructions have been issued that compact areas of surplus lands containing forest growth and large blocks of lands exceeding 10 acres containing more than 25 trees per acre may be proposed for trasfer to Forest Department for organisation of forestry. The Government have now considered whether surplus land should be surveyed to find out their suitability for cultivation. After surplus land is determined, it is not difficult for the officer to survey the land as to its suitability for cultivation or otherwise, earmark the land proposed for transfer to Forest department; land required for public purpose, the land suitable for cultivation and the land that is quite unsuitable for cultivation in which fodder, hoticulture and such like development can be taken up. After obtaining such reports, the Tahsildars should have these particulars entered in a Register, and send up proposals for

i) reservation and transfer of land to Forest Department, and

ii) reservation for public purpose where the lands are required for specific public purpose where the lands are required for cultivation, they will be notified for grant in the usual course. Where the lands are quite unfit for cultivation, such lands could be thought of for being developed as pastures etc, through panchayats or voluntary organisations. In such cases proposals should be submitted for reservation of such lands for public purposes and transfer to Panchayats or lease to voluntary organisations with the consent letter of such institutions.

Where such a survey has not been done previously while taking possession and where the surplus land has not yet been distributed, such a survey may be got done and its suitability for various purposes may be determined.

Wherever compact blocks of surplus lands are available for distribution the Government desire that the Deputy Commissioners should consider Organising co-operative forms as contemplated in Sec.89 to 102 of the Karnataka Land Reforms Act through Block organisations. This will give the allottees the benefits of Co-operative farming and the various types of assistance available from the Co-operation Department.

The Deputy Commissioners are requested to see that the above instructions are carried out by Tahsildars/Special Trhsildars – for Land Reforms.

(H.N. RANGANATHAN)

Sl No 127

Circular Number RD 6 LRM 84

Date 01/19/84

Section Land Reforms

Subject Giving protection to the tenants.

Body GOVERNMENT OF KARNATAKA

No. RD 6 LRM 84 Karnataka Government Secretariat,

Vidhana Soudha,

Bangalore, Dated: 19th January 1984.

C I R C U L A R

Sub:- Giving protection to the tenants.

It has come to the notice of Government, that inspite of Circular Instructions vide RD 502 LRM 76 Dt.5-8-1976, RD 608 LRM 77 dated 27-12-1977 and also Home Department Circular No.HD 677 SST 74 dated 21-11-1976 and Circular No. 3822 dated 22-7-1976 of the Inspector General of Police, Banglore and Government letter No.RD 519 LRM 78 dated 7-9-1979 wherein a copy of the Circular No. 4518 dated 17-3-1979 of Law Department was marked to all the interest of the tenants are not being protected.

It is reported that even the occupancy rights are conferred on tenants, and such tenants are in physical possession and enjoyment of the lands, merely because the ex-landlords have brought stay orders, the police authorities have given protection to the ex-land owners and not to the tenants. The ex-landlords have also been allowed to take the crops harvested by the tenants with the help of the police.

The tenants are basically poor and come from very backward community. Protection of their interest which is lawful is of paramount importance, when polilce protection is sought.

When the question of giving protection comes up before them, all the Tahisldars of the taluk are hereby directed to refer by the matter along with the orders of the High Court brought by the ex-land lords to the Assistant Commissioner of the concerned Revenue Sub-Divison for his express orders in each case on the strength on its merits. The Tahsildars will be personally held responsible for any action taken without obtaining the specific orders of the Assistant Commissioner concerned.

The Assistant Commissioner should study the legal implications of the judgment carefully and issue instructions on the strength of the merit of the case. The orders should be communicated to the Tahsildars of the concerned taluka with least delay to avoid any kind of resistance.

(K. Jayaseela),

Sl No 518

Circular Number RD 37 LRM 85

Date 03/06/85

Section Land Reforms

Subject No Subject

Body GOVERNMENT OF KARNATAKA
No. RD 37 LRM 85 Karnataka Government Secretariat,
III Stage, VI Floor, M.S. Building,
Bangalore, dated: 6th March 1985.
<u>C I R C U L A R</u>
While disposing of write Petition No. 23240/82 pertaining to an issue under the Land Reforms Act in respect of a survey number in a particular District in Karnataka, the High Court has, in its order dated 18-12-1984, observed that the Government should examine whether the transactions involved in that case attract the provisions under Sections 60, 61 and 62 of the Karnataka Land Reforms Act. The Court has also directed that requisite corrective measures should be considered for the purpose of protecting the interests of Government in such cases.

1. The plot of land, in this particular case, was an ex-tenanted land, the occupancy rights over which were conferred on the ex-tenant under the Land Reforms Act. The beneficiary subsequently applied, under the provisions of the Land converted to non-agricultural purpose, Eventually, the land in question, was formed into sites and sold by him to five different persons.

2. The issue, whether these transactions would be affected by Sections-60, 61 and 62 of the Karnataka Land Reforms Act, is carefully considered by the Government. Under Section-60 of the said Act, the tenant, who is registered as occupant, should cultivate the land personally and failure to do so for these consecutive years, without sufficient reasons could result in his eviction. The provision of Section-61 of the Act impose a restriction on the party against any transfer of such land for a period of 15 years, from the date of issue of occupancy certificate. Similarly, under Section-62, if the person who is registered as occupant, gives up personal cultivation within six years from the date of such registration, he shall surrender the land to the State Government.

3. In this case, after perusal of relevant records obtained from the concerned field offices and on a careful examination of all the facts involved, the Government is of the considered view that the various transactions in respect of the land convered in W.P.No. 23240/82 are not, in any way, hit by Sections-60, 61 and of the Karnataka Land reforms Act, as they now exist.

4. At the same time, and more so, in the light of the observations of the High Court, Government considers it very necessary to take requisite corrective steps to check any possible move by anyone to circumvent the provisions of law and thus defeat the intended objectives of the Land Reforms Act. This is all the more essential, as all ex-tenanted lands and all surplus lands have vested in the Government under the Land Reforms Act and the State interests, thus accrued, are to be protected.

5. Keeping these factors in view, all the Deputy Commissioners/Special Deputy

Commissioners are hereby directed that, with immediate effect, in respect of all lands vested with Government under /section 44 and 68 of Karnataka Land Reforms Act 1961, (occupancy rights over which are conferred or are being conferred in favour of ex-tenants under Section 48A, and surplus lands granted or are being granted under Section 77 of the said Act) and if the non-alienation restrictive period has not elapsed, the conversion to non-agricultural purpose shall hereafter be done only with prior approval of the Government. This provision of prior approval of Government should be scrupulously followed in all such cases.

6. The receipt of this circular may please be acknowledged. Suitable instructions should issue urgently to all, the Assistant Commissioners/Tahsildars in this regard.
(S. VENKATESH) Revenue Commissioner.

Sl No 135

Circular Number RD 92 LRM 89

Date 08/21/89

Section Land Reforms

Subject NO Subject

Body GOVERNMENT OF KARNATAKA
No. RD 92 LRM 89 Karnataka Government Secretariat,
Sachivalaya 2,
Bangalore, dated: 21st August 1989.
C I R C U L A R

1) As per circular no. RD 37 LRM 85, dated 6.3.81 prior approval of the Government is required to be obtained in all cases where a request is made for diversion to non agricultural use, of agricultural lands whose occupancy rights have been confirmed under the KL.R.Act.
2) The Deputy Commissioners are sending all the cases to Government for prior approval. It is rather difficult to verify from the recommendations of the Deputy Commissioners whether anyone is trying to circumvent the provisions of law and thus defeat the purpose of the K.L.R.Act. When a conversion is sanctioned with a condition of non alienation for a period of 15years the parties represent that such conditional conversion will not help them. In these circumstances it is necessary to evolve certain criteria which would enable granting of conversion in deserving cases.

3) After careful examination of all the facts involved, the Government is of the view that conversion for non agriculture purpose may be considered in cases of land, in respect of which occupancy right has been sanctioned to a tenant, where on account of certain developments in the area either agricultural is not possible or is not profitable.

4) In this connection, the Deputy Commissioners are requested to examine such cases in detail and recommend such of the cases as are indicated in para 3 above, with clear cut findings with facts and reasons. The cases which do not satisfy the above conditions shall be rejected at their level.

5) The receipt of this circular may be acknowledged and action taken to implement the same with immediate effect

(P. VENKATESH)

Sl No 518

Circular Number RD 170 LRM 95(P)

Date 02/05/97

Section Land Reforms

Subject Clarification to the Deputy Commissioners regarding agreement copy under item 6(a) in Form 15A under Rule. 38C

Body GOVERNMENT OF KARNATAKA
No. RD 170 LRM 95(P) KarnatakaGovernmentSecretariat,
M.S. Building,
Bangalore, dated: 5th February 1997.
C I R C U L A R

Sub : Clarification to the Deputy Commissioners regarding agreement copy under item 6(a) in Form 15A under Rule. 38C.

It has come to the notice of Government that the Deputy Commissioners are insisting for agreement copy entered into between the land owners and the applicant as per item No.6(a) of Form 15A under the Karnataka Land Reforms (Amendment) Rules, 1996 before the clearance of Single window Agencies, as provided under Rule 38C on Form No. 15A.

Government have re-examined the issue in Form No. 15A item 6(a). The purpose of this column is only to identify whether the proposed land to be purchased by the exempt, is in confirmity with the zonal regulations under the Karnataka Country and Town

Planning Act, 1961 and also whether the lands come under non-alienation clause under different land eiling/land grants Acts/Rules.

Further unless the Single-Window Agency, clears the extent of Land applied for, the applicant cannot finalise the extent of land to be purchased.

In view of the above it is clarified to the deputy Commissioners that the agreement/conscent copy under item 6(a) in Form 15A under Rule 38C may not be insisted before learans of the project/proposal by the competent Single window Agencies. However, the consent/agreement letter may be insisted by the Deputy Commissioners before submitting the proposal to Government in Revenue Department along with the other documents mentioned in the prescribed format.
(K. H. NANJEGOWDA)

Sl No 518

Circular Number RD 34 LRM 81

Date 05/02/81

Section Land Reforms

Subject Grant of land to unauthorised occupants belonging to S. Cs/S. Ts

Body GOVERNMENT OF KARNATAKA
No. RD 34 LRM 81 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, DATED: 2nd May 1981.
C I R C U L A R
SUBJECT : - Grant of land to unauthorised occupants
belonging to S. Cs/S. Ts.
REFERENCE : G. O. No. RD 27 LGP 81, dated 27-3-1981.

In the Government order cited above, Government have directed to Deputy Commissioners and Special Deputy Commissioners of the Districts to grant land to the unauthorised occupants period of at least one year prior to 1-9-1979 subject to other terms and conditions specified there in. This is an important welfare measure taken up by Government especially for the benefit of S. Cs. And S. Ts. With a view to make up short fall in the extent of land granted to these categories in the past under the Rules and Orders in force and to ensure that the benefit of statutory reservation is actually extended to these categories. Therefore, Government attaches great importance to the implementation of this programme in the shortest possible time. For this purpose, Government desire that a concerted drive should be take up immediately in order to see that the entire work of issue or orders of grants as also the issue of saguvali chits confirming the occupation to the grantees is completed within a period of two months from now, that is to say, by the end of June 1981, so that form the ensuing khariff cropping season, there would be no unauthorised occupants of this category and also in the Jamabandi of the Village Accounts there would be no T. T. Cases carried forward to the new Revenue year commencing from 1st July 1981. Simultaneously Government also desire that action should be taken to evict all unauthorised occupants of other categories who are not eligible for regularisation under these or the previous orders and such evictions should also be completed positively by 30th June 1981 so that the land thus becoming available could be notified fore disposal as on 1st July 1981, and disposed off under the Rules.

2. With a view to clarify doubts in giving effect to the above Government order, the following clarifications are also hereby issued:

(i) The Land grants to be made to the unauthorised occupants under these orders need not be referred to the Land Grant Consultative Committees;

(ii) The maximum extent of land that can be granted under these orders is two hectares of dry land or rain – fed wet land, or other extents equivalent there to as indicated in the preamble to the said Order. However, attention is invited to para 9 of Govt. Circular No. RD 16 LGP 79 (P) dated 16-10-1979, wherein the Government's policy has been clearly enunciated indicating that such of the poor landless persons who get less than 2 hectares of land under these orders should be granted additional land wherever possible so ass to bring their total holding to atleast 2 hectares subject to usual reservations and priorities under the Karnataka land Grant Rules, 1969.

(iii) Tands may be granted under these orders to the unauthorised occupants belonging to SCs/STs. Who are land-less and also to the insufficient holders of this category. In case of the latter, their total holding including the extent under their unauthorised occupations should not however exceed 2 hectares.

(iv) While granting land to the unauthorised occupants under these orders, only a nominal T.T. fine of rupee one per acre per year shall be levied under Section 94 of the Karnataka Land Revenue Act, 1964, as already authorised under Government Circular No. RD 130 LGP 77, dt.19-11-1977 . Further, the upset price payable in respect of dry and wet lands as also the measurement fees leviable in respect of survey and demarcation of the lands to be granted under these orders shall not be levied and recovered as provided under Rules 12 and 13 of the Karnataka Land Grant Rules, 1969.

(v) These orders shall not be applicable in respect of encroachments over Government lands for Coffee, Tea, Cardamom, Paper Plantations etc., but will apply only to agricultural lands, vide para 2 of Government Circular No. RD 16 LGP 78(P), dated 4-12-1979. Similarly, in respect of other lands, such tank beds, date reserve lands, Gomal (Gairan) lands, 'C' & 'D' Class lands etc., the special orders governing the grant of such categories of lands shall also be taken into consideration before granting such lands under these orders, as indicated in Government Circular No. RD 16 LGP 79 (P), dt. 16-10-1979. Thus, for example, gomal lands under unauthorised occupation should first be disassigned and got released form gomal category under section 71 of the Karnataka Land Revenue Act, 1964 read with Rule 97 of the Karnataka Land Revenue Rules, 1966 after complying with the requirements thereunder, before granting the same to the unauthorised occupants under these orders.

(vi) Orders of grant of land under these orders may be isued by the officers competent to grant land under the Karnataka Land Grant Rules, 1969. Thus, since under these orders a miximum of 2 hectares of dry land can be granted and the Tahsildars incharge of the Taluks have the powers of such grant under Rule 7(i) of the Karnataka Land Grant Rules, 1969, the orders of grants under this Government order can be issued by the Tahsildars accordingly.

(vii) One vital factor which should be looked into before passing the orders of grant is regarding the actual cultivation of the land and the physical possession a-nd enjoyment of the same for a period of at least one year prior to 1st September 1979. For this purpose, the granting authorities should be guided by the instructions issued under item (vi) of para 7 of the Government Circular No. RD 16 LGP 79(P) dated 16.10.1979 and also the further instructions issued under items (i) to (v) in para 1 of the Government Circular of even number dated 1.12.1979. That is to say, while blind reliance should not be placed merely on the entries made by the Village Accountants in the original Pahani records the grant orders should be based on the results of spot verification of the factual position regarding actual cultivation, possession and enjoyment, irrespective of whether the same is reflected or not in the Pahanis. In case the facts claimed are not corroborated by the Peahen records, the grant orders should be passed only on the basis of the results of spot inspection by the Assistant Commissioner of the Subdivision. Such factual possession and enjoyment should however be for a minimum period of one year prior to 1st September 1979.
(viii) As already stated in the Government Order read above, all the other instructions issued in the different orders read in the Government order will be applicable to the land grants to be made under these orders, except to the extent indicated above.

The Assistant commissioners who are enjoined to make the local inspection should be treated this as a top-priority work and furnish the same expeditiously.

2. All the Divisional Commissioners, Deputy Commissioners and Special Deputy Commissioners should closely supervise the implementation of this programme and review the progress from time to time and ensure the successful completion of the same within the stipulated period. The Deputy Commissioners/Special Deputy Commissioners are requested to furnish immediately information in the Proforma 'A' enclosed to this Circular indicating the details of unauthorised occupations as on the date of the Government Order. The final compliance report may be submitted in the Proforma 'B' so as to reach Government by 15th July 1981. Any failure of laxity in the proper implementation of this progamme will viewed very seriously by Government.(G.H.ADIRAJAIAH),
Revenue Commissioner & Secretary
To Government, Revenue Department

RD 34 LGP 81

P R O F O R M A 'A'

Dist. : ____________

Statement showing the extent of unauthorised occupation of Government lands as on 1-4-1981

Sl. No.	Taluk	Total No. of cases and extent of land under Unauthorised occupation as on 1-4-1981	SC / STs (Out of Col.3)	Others (Out of Col.3)	Remarks
		No. of persons	Area	No. of Persons	AreaNo. of PersonsArea
			A	G	AGAG
1	2	3(a)	3 (b)	4 (b)	4 (b)5 (a)5

					(b)6

Sl. No.	Taluk	Total No. of cases and extent of land under unauthorised cultivation as on 1-4-81.	No.of Cases & extent regularised under G.O.No. Dt.1-9-77, subsequent to 1-4-81 in respect of SC/STs (Out of Col.3)	No.of cases & extents of unauthorised occupation not eligible for regularisation under either G.Os dated 1-9-77 or 27-3-81, and evicted subsequent to 1-4-81 (Out of Col. 3)	Balance cases (Out of Col. 3)	Remarks giving reasons for pending of regularisation / eviction

Sl No 557

Circular Number RD 247 SST 72

Date 09/28/73

Section Land Reforms

Subject Record of Rights – Tenancy particulars – rectification of wrong entries –

Body GOVERNMENT OF MYSORE

NO. RD 247 SST 72 Mysore Government Secretariat,
Vidhana Soudha,
Bangalore, dated 28th Sept. 1973.
CIRCULAR

Sub:- Record of Rights – Tenancy particulars – rectification of wrong entries –

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In view of the implement of the Mysore Land Reforms Act, 1961 as amended from time to time and the proposed Mysore Land Reforms (Amendment) Bill, 1973 now a waiting the assent of the President, the tenance particulars in the old Record of Rights have assumed greater importance. Several allegations are being received by Government from time to time that the landlords in collusion with the Revenue officials are getting the tenancy particulars tampered with the sole of object of defeating the provisions of the Mysore Land Reforms Act and the genuine tenants are rendered helpless as a consequence. Government are, therefore a-nx-ious that the tenants be given all safeguards possible in such contingencies and remedial steps taken to avoid such tampering hereafter. Instructions for safe-custody of these records have been issued in Government Circular NO. RD 138 LRM 72 dated 31-8-973. Instructions have also been issued in Government Circular NO. RD 218 TRR 72 dated 21st May 1973, that until implementation of ceiling law is completed, the khata registers from 1960 onwards should be preserved without destruction. The Mysore Agricultural Lands (Prohibition of A-lienation) Ordinance, 1973 (Mysore Ordinance 2 of 1973) has been promulgated on 29-8-1973. Tahsildars and other Revenue Officers have been instructed in Government Circular No. RD 5 LRA 73 dated 6-7-1973 to scrutinise mutation cases with reference to the restrictive provisions in the said Ordinance and honour only those mutations which are not inconsistent with the provisions of the said Ordinance.

2. Government have considered the question of rectifying the wrong entries already made in the tenancy particulars of the Record of Rights, and direct that except min the following cases, any change in the tenancy particulars of Record of Rights after 1957 may be treated as u-nauthorised and such changes ignored for all purposes and the entries set right:-
i) that there was an evidence of (a) surrender by the provisions tenant before the Tahsildar and acceptance of the surrender by the Tahsildar; and (b) a fresh lapse in favour of the new tenant after such surrender. Such leases after 2-10-65 should have been in writing ; or
ii) there was (a) an order of eviction by competent authority; and (b) a fresh lease in favour of the new tenant after eviction of the old tenant which should have been in writing after 2-10-1985.

3. Where, however, a Civil Court has ordered any change in the Record of Rights, such changes should always be incorporated in the Record of Rights provided the same do not come under the purview of Section 83 of the Mysore Land Reforms Act, 1961. If the transactions so ordered by the Civil Courts come under the purview of Section 83, then such transactions should be brought to the notice of the Assistant Commissioner concerned for action as per Section 83. Such transactions should not be incorporated in the Record of Rights till the Assistant Commissioner gives his final decision.

4. Change of tenure of lands under tenancy to owner cultivation has to be supported either by an order of the Tahsildar accepting surrender by the previous tenant or an order of eviction by a competent authority.

5. All Revenue Officers are requested to scrutinize immediately all old Record of Rights and take action to set right the unauthorised entries in view of the imminence of tenants becoming owners of the lands cultivated by them. All such rectification of wrong entries be made by the Tahsildars after giving 30 days notice to the persons likely to be aggrieved to prefer objections, if any. The notice should clearly mentioned the entry as it exists, the entry as it would be after effecting the change and the reasons for making the change.

Sd/- J.T. Borker,
Under Secretary to Government,
Revenue Department.
Sl No 558

Circular Number RD 247 SST 72

Date 10/17/73

Section Land Reforms

Subject Record of Rights – Tenancy Particulars –
Notification of wrong entries –

Body GOVERNMENT OF MYSORE

NO. RD 247 SST 72 Mysore Government Secretariat,
"Vidhana Soudha",
Bangalore, Dt. 17th Oct. 1973.

<u>CORRIGENDUM</u>

Sub: Record of Rights – Tenancy Particulars –
Notification of wrong entries –

The figures and words –"40 days notice" appearing in line 7 of para 5 of the Circular No. RD 247 SST 72 dt. 28.9.1973 may be read as "10 days notice".

Sd/- J.T. Borker,
Under Secretary to Government,
Revenue Department.

Sl No 560

Circular Number RB/TNC.SR.369

Date 04/02/74

Section Land Reforms

Subject Implementation of Land Reforms Act, 1961 Instructions for . . .

Body Subject:- Implementation of Land Reforms Act, 1961 Instructions for . . .

NO. RB/TNC.SR.369
Belgaum: 2/4/1974.

CIRCULAR

The Mysore Land Reforms (Amendment) Act, 1973 and the draft Karnataka Land Reforms Rules, 1974 have been published in the Karnataka Gazette Extra-ordinary dated 1-3-1974 and 7-3-1974 respectively and the Amendment Act has come into force on 1-3-1974. The Land Reforms measures embodied in the Act as amended by Karnataka Act, 1/74 aim at doing away with the class of "Absentee Land Lords" and conferring ownership of the tenanted lands on the tillers of the soil, the only exception being made in regard to agricultural lands belonging to serving soldiers and sea-men. The provisions of the Act, do not contemplate a transfer of ownership of the tenanted lands directly to the tillers but envisage an initial vesting in Government of all tenanted lands for their eventual transfer to the tenants concerned and other landless agriculturists etc., subject to the limitations and terms and conditions set out in the Act.

2. The following are the important matters in which pedical changes are made in the Amendment Act (Act No. 1/74):-
(a) Determination of rent payable by the tenant, has to be made with reference to the Land Revenue and water rate payable annually on the land and the procedure of fixation of rent with reference to the annual income on the statutory average yield notifications has been replaced (Sec.8).
(b) There is no provisions permitting resumption of agricultural lands from the tenants by the land-lords for personal cultivation or for a non-agricultural use except in cases

where the land-lords happen to be serving soldiers be availed of hitherto by (i) Minors; (ii) persons incapable of cultivating the lands personally by reason of any physical or mental disability; (iii) a widow and (iv) an unmarried woman (Sections 14 (ommitted) and 15)
(c) All tenanted lands stand vested in Government (Sec.44)
(d) The concept of ceiling on land has also been reduced (Sec (63) read with Part 'A' and the formula laid down in Part 'B' of Schedule I to the Act).
(e) Powers to decide matters arising out of he Act have been taken away from the "Court" except when there is dispute regarding ownership etc. and where making of references to Courts has been enjoined.
(f) As per Sec. 72 of the Act as it stood prior to amendment compensation payable to the landlords in the case o tenanted lands and to owners in the case of lands under personal cultivation in excess of the ceiling on land was ten times the average net annual income but as per amended section 72 it is to be paid on the basis of the net annual income derived under section 8 (as amended) in accordance with the scale laid down in the said section which ranges from 10 to 20 times the net annual income (viz. ten times the aggregate of the Land Revenue and water rate, if any, payable in respect of the land) (Sec. 72(2) read with Sec.8).
(g) Statutory provisions directing preparation and publication of average yield notification of principal crops and publication of list of lands possessing facilities for assured irrigation have been deleted.
(h) The leases obtained by Industrial or Commercial under takings, co-op. Societies etc. were – exempted from the operation of law, but such exemption will not now be enjoyed by the industrial or commercial undertakings, co-op. societies etc. (Sec. 103 omitted)
(i) The surplus land vested in Government is to be disposed of by Tribunal constituted under sec. 48 (Section 77).
(j) Certain restrictions on holding or transfer of agricultural lands have been imposed (Sec. 79-A and 79-B).

3. The scheme of the Amendment Act and the Chapter-wise arrangements of different provisions with particulars of important sections of law in them concerning each aspect of the Reforms Measure are as under:-
Chapter – I : contains definitions of terms and expressions used in the Act.

Chapter – II : deals with general provisions regarding tenancies – (i) Prohibition of leases (Sec.5), (ii) restoration of possession to tenants dispossessed in certain circumstances (Sec.7), (iii) computing of rent payable by tenant (Sec.8), (iv) tenant liable to pay Land Revenue and other cesses (Section 10-A), (v) Resumption of land by serving soldiers or sea-men landlords (Sec.15) (vi) Sub-Division, subletting or – assignment by tenant of any interest in the land prohibited (Sec.21) (vii) Eviction of tenant for default in payment of rent (Sec.22), (viii) Tenants responsibility for maintenance of boundary marks or protection of bunds (sec.20 & 30), (ix) First option to purchase lands (Sec.3 to 39).

Chapter – III : deals with confirment of ownership on tenants:-
(a) Vesting of all tenanted lands in Govt. and consequence of such vesting (Sec.44).
(b) Procedure to be followed by tenants for being registered as occupants of the – former tenanted lands (Sec.45).

(c) Amount payable for the land vesting in Government (Sec.47).
(d) Constitution of Tribunal for disposal of vested lands (Sec.48) and appearance of legal practioners before tribunal barred (sec. 48(8)).
(e) Mode of payment of amount payable (Sec. 51).
(f) Payment of premium by Tenant entitled to be registered as occupant under Section 45 (Section 53).
(g) Restriction on transfer of land of which – tenant has become occupant (Section 61).
(h) Surrender of land by tenant to Government when cultivation is given up (Section 62).

Chapter IV - deals with ceiling of land holdings.

(a) Ceiling on land (Section 63) upto 10 units for single or family consisting of 5 members or less + two unit for every additional member subject to the maximum of 20 units in aggregate (which is inclusive of Stri Dhana land).
(b) Educational, Religious and Charitable institutions, Society, or Trust of a Public nature may hold land upto 20 units so long as its income is appropriated solely for the purpose of the institution, trust etc. – concerned.
(c) Sugar factory may hold land upto 50 units solely for research or seed farm or both.
(d) Declarations of holdings exceeding the ceiling area shall have to be filed within 90 days from 1-3-1974 to the Tahsildar within whose jurisdiction the holding of such person or the greater part there-of is situated (Sec.66(1))
(e) Tahsildar shall have power to enforce filing of declarations under sec. 66(1) and impose penalty upto Rs.500/- for default (Sec.66(2) and Sec. 66-A).
(f) Determining of surplus area over and above the ceiling limit (Sec.67).
(g) Amount payable for land surrendered to and vesting in Government under section 44 (In respect of land referred to in sub-section 10 of section 63, the amount payable would be equal to the market price of the land) (Section 72).
(h) Disposal of surplus land vested in Government according to priority laid down therein (Sec.77).
(i) Purchase price of surplus land due from tenant and others and the procedure for its recoveries. (Sec.78).

Chapter – V – deals with restrictions on holdings or transfer of agricultural lands

(a) Future acquisition of land by certain persons prohibited (Sec.79-A).
(b) Holding of agricultural land by certain persons (including Educational, Charitable, religious institutions, Society other than a co-op. Farm or Trust etc.) Prohibited (Sec. 79-B).
(c) Transfer to non-agriculturists barred (Sec.80).
(d) Declarations to be made before the Registering Authorities in certain cases (Sec. 81-A)
(e) Detection of illegal transactions and taking action to declare them as null and void (Sec. 82 & 83).

Chapter – VI – deals with cultivation of uncultivated lands.

Chapter – VII – deals with Co-op. Farms.

Chapter – VIII - deals with exemptions from the operation of the provisions of the Act.

(a) Exemptions from operation of law in respect of leases obtained by Industrial or Commercial undertakings or co-op. Societies etc. stand withdrawn (Sec.103) Exemption in regard to leases by or to the local authorities also withdrawn subject to the provisions of Sec. 107 (Sec. 105).
(b) Ceiling provisions will not apply to plantations under certain circumstances (Sec.104).
(c) Act will not apply to certain lands such as those leased out by Government, coffee Board etc (Sec.107) Court of Wards (Sec. 208).
(d) Exemption of lands from operation o Sec.80 and reservation of them for urban non-agricultural and industrial development (Sec.109).

Chapter – IX – deals with procedure and jurisdiction of Tahsildar and Tribunal.
(a) Duties and functions of Tahsildar (Sec.112)
(b) Appeals (Sec.48).
(c) Revision by the Divisional Commissioner (sec.118-A)

Chapter – X – deals with offences and penalties Sec.125).

Chapter – XI deals with the miscellaneous provisions contained in the Act.
(a) Legal assistance to poor tenants (Sec.127)
(b) Summary eviction of unauthorised occupants by Tahsildar (Sec.130).
(c) Act to prevail our other enactments (Sec.138).
(d) Repeals and savings (Sec.142).
The classification of land has been given in part – 'A' of Schedule-I and formula for determining the equivalent extent of and of different classes is given in part 'B' of the said Schedule.

4. There have thus been radical changes in the Amendment Act and the task of implementing the same mainly rests on the Tahsildars who have been vested with many additional powers under the Act and Assistant Commissioners and Deputy Commissioners. The Tahsildars may, therefore, study carefully the provisions of the Act and the Rules thereunder and take appropriate action for implementation of the Act. The – following are the important and time-bound provisions of the Act in which immediate action is called for :-
1) Under section 44 of the Act, all tenanted lands except the lands permitted to be leased under section 5 stand vested in Government with effect from 1-3-1974. Necessary changes in the Record of Rights will have to be effected in this regard after following the procedure prescribed in Chapter XI of the Karnataka Land Revenue Act, 1964.
2) Section 48-A provides that every person entitled to be registered as an occupant under Section 45 has to make an application to the Tribunal constituted – under section 48 within 6 months from 1-3-1974 in the prescribed form.
3) Section 66 requires every person holding 10 acres or more of 'A' class or 'B' class of land, 20 acres of 'C' class of land and 40 acres of 'D' class of land to file before the Tahsildar, a declaration of his holding in the prescribed form within 90 days from 1-3-1974.
4) Section 79-B prohibits holding of agricultural lands by certain persons co-operative

societies etc. with effect from 1-3-1974. Such persons, co-operative societies etc. who have held land have to furnish a declarations of the holdings to the Tahsildar within 90 days from 1-3-1974.

The Tahsildars should, therefore, take quick action to bring to the notice of the agriculturists, landlords, land-owners and tenants, the time limit specified in Sections 48-A, 66 and 79-B of e Act, by wide publicity in village chavadies, village panchayat offices, Taluks Board offices, taluka offices and other conspicuous places. The Assistant Commissioners, Deputy Commissioners and Special Deputy Commissioners are requested to ensure that timely action is taken by the Tahsildars in this regard.
5) The Tahsildars have already been instructed to bring the Record of Rights upto-date and to prepare the list of landless agriculturists entitled to grant of land under section 77 of the Act (vide this office Circular No. RB/TNC.SR.369, dated 13-10-1970 and 21-1-1974). The progress in this regard may be pursued and final lists prepared expeditiously. The Tahsildars should proceed with the implementation of the Act with the help of the existing staff pending Government orders in this behalf. It should be ensured that the implementation of the Amended Act is done with utmost zeal and promptitude at all levels.

Sd/- K.R. RAMACHANDRAN,
Divisional Commissioner, Belgaum,

Sl No 562

Circular Number RD 118 LRM 74

Date 08/20/74

Section Land Reforms

Subject Conversion of agricultural lands lying fallow over two
Or three years into non-agricultural use classification of

Body GOVERNMENT OF KARNATAKA

NO. RD 118 LRM 74 Karnataka Government Secretariat,
"Vidhana Soudha",
Bangalore, dated, 20-8-1974.

From
The Secretary to the Government of Karnataka,
Revenue Department.

To
The Special Deputy Commissioner,
Bangalore District,
BANGALORE.

Sir,

Sub: Conversion of agricultural lands lying fallow over two
Or three years into non-agricultural use classification of

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With reference to your D.O. Letter No. ALN.CR.7(A)/74-75 dated 5.6.1974 requesting clarification on the subject cited above, I am directed to reproduce here under the advice given by the Law Department.

The procedure for converting an agricultural land for non-agricultural land for non-agricultural purposes is as provided under Section 95 of the Land Revenue Act, 1964 and the rules made thereunder. Agricultural land referred to therein includes uncultivated agricultural land also i.e., lands shown in revenue records as agricultural in character, but remaining uncultivated.

Action to be taken under Section 84 of the Land Reforms Act, to compel an agriculturist to cultivate an agricultural land which remains uncultivated for a period of two consecutive years or more, is a separate matter. It may be that in given case, the Assistant Commissioner may come to know, on an application being made before him for conversion of an agricultural land under Section 95 of the Land Revenue Act, that the same remains uncultivated. But this fact should not come in the way of considering the application made under Section 95 of the Land Revenue Act on its own merits. If the decides to grant permission there ends the matter. If not, then he may, if he so chooses, proceed under Section 84 and 85 of the Land Reforms Act and take such action as the circumstances warrant.

Yours faithfully,
(N.B. Sakhardande)Asst. Spl. Officer of L.R. & Ex-officio
Under Secretariat Govt, Rev. Dept.

Sl No 563

Circular Number RD 138 LRM 74

Date 08/24/74

Section Land Reforms

Subject Land Reforms : Vesting in Government of the
Lands leased by landlords to tenants –
Identifying of –

Body GOVERNMENT OF KARNATAKA

NO. RD 138 LRM 74 Karnataka Government Secretariat,
"Vidhana Soudha",
Bangalore, Dt: 24th Aug 1974.
CIRCULAR

Sub : Land Reforms : Vesting in Government of the
Lands leased by landlords to tenants –
Identifying of –

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The Karnataka Land Reforms Act, 1961 as it stood prior to its amendment by Karnataka Act No.1 of 1974 with effect from 1.3.1974 gave a last opportunity to the landlords owning specified extents of land who had leased out their lands to tenants, to recover about 50% of such land for their personal cultivation or for bonafide non-agricultural use. This right of resumption was, however, subject to the conditions laid down in Sec.16 of the principal Act. After the amendment of the Act with effect from 1.3. 1974, this right of resumption given to the landlords has been withdrawn. Further, it has been provided that all applications statements and proceedings (including execution proceedings and proceedings in appeal) under the Principal Act relating to resumption of land pending before the Court immediately prior to 1.3.1974 except those permitted by Sec. 5 shall not have effect and small abate. In short the landlords have lost the right of resumption of the land under lease with effect from 1.3.1974.

2. Under the Law as amended, it is provided that all lands held by or in possession of tenants immediately prior to 1.3.1974 except those whose lease is permitted Sub-section (2) of Sec.5 shall stand transferred to and vest in the State Government free from all encumbrances (Sec.44). It is further provided that all rents and all other amounts due in respect of such lands, which becomes due on or after the date of vesting shall be payable to the State Government. All such lands are to be taken possession of by Government.

3. According to the agricultural Census of 1971 over 8 lakh hectares of land comprising 3.97 lakh holdings come under the category of lands rented by the cultivators wholly or partly. Identification of these holdings keeping in view the figures of agricultural Consus is no doubt a stupendous job requiring deep scrutiny of the land records at village level. This job, however, has to be done, and done expeditiously. Clear cases of tenancy are to be sorted out first and listed out village-war and the tenants advised to apply to the

Tribunal before the expiry of the extended time. In other cases where the tenancy is in dispute, the tenant should be advised to approach the Tribunal constituted under Sec.48 of the Act within the extended time with an application in Form 7 prescribed under the Rules. A list of such disputed cases may also be prepared and the disposal of the disputes by the Tribunal watched.

4. The Tribunal which is empowered under Sec.48-A to enquire into the applications of persons entitled to be registered as occupants received by it within the time limit specified therein, will take some time to complete and till then the person in possession of the land will continue to be in possession. Under Sec. 44(2)(b), the tenant has to pay to Government all rents and all other amount in respect of the lands vested in Government under Sec.44, which become due on or after 1.3.1974. Under Sec.10-A, the tenant shall, with effect from 1.3.1974, be responsible for the payment of land revenue, water rate and all cesses or fees levied thereon to the State Government or a local authority in respect of land held by him on lease.
5. There may not be any difficulty in following the above noted provisions in Sec. 44(2)(b) and Sec. 10-A in undisputed cases of tenancies. In respect of other cases where the tenancies are in dispute, the question, whether the land revenue and other dues as from 1.3.1974, should be collected from anyone till the Tribunal determines the tenants' rights has been examined by Government. It is not permissible to demand Land Revenue in respect of such lands either from the landlord or the tenant. The landlord will plead that the land has vested in Government while the tenant will plead that he has not yet been given occupancy rights. But it is possible that in certain cases, the landlord or tenant or both may voluntarily pay the Land Revenue and other Government tax on disputed lands. In such event it is directed that the amount offered may be collected. In cases where both pay, eventually, the amount paid by the person whose claim is disallowed by the Tribunal, can be refunded.

6. The arrears due upto 1.3.1974 should however be recovered from the landlord.

7. Under Sec. 45, every person who was a permanent tenant, protected tenant or other tenant or where a tenant has lawfully sublet, such sub-tenant is entitled to be registered as an occupant with effect from the date of vesting of the lands of which he was a tenant, and which he has been cultivating personally. Such tenant gets the occupancy rights only on passing of an order by the Tribunal under Sec.48A (5) and thereafter he pays to Government the amount of premium in respect of the land as fixed under Sec. 48A (7) either in a lumpsum or in equated instalments over a period not exceeding twenty years with interest at 4 ½% p.a. vide Sec.53. Until the Tribunal issues an order, vide Sec. 48A(5), the person actually cultivating the land may be advised strongly that, so long as he claims to be a tenant, it will go against his best interests if he does not deposit with Government the rent due in respect of such land from 1.3.1974 in accordance with Sec.8 of the Act. These deposits will later on be set off against the premium due and payable to Government by the tenant who gets the occupancy rights and that would help in relieving the burden of paying the accumulated arrears of premium at that time.

8. The Revenue Officers have to get ready with uptodate villagewar lists of lands under lease, specifying the land revenue, rent as prescribed in Sec.8 and other dues recoverable in respect of such lands from 1.3.1974 and take steps for their recovery at the appropriate times.

(N.B. Sakhardande)
Asst. Spl. Officer for L.R. & Ex-officio
Under Secy. to Govt. Rev. Dept.

Sl No 566

Circular Number RD 203 LRM 74

Date 10/30/74

Section Land Reforms

Subject CIRCULAR

Body GOVERNMENT OF KARNATAKA
NO. RD 203 LRM 74 Karnataka Government Secretariat,
'Vidhana Soudha',
Bangalore, Dt: 30th October 1974.
C I R C U L A R

Attention of all the Deputy Commissioners is invited to the procedure followed with regard to conversion of agricultural lands into non-agricultural purpose under Section 95 of Land Revenue Act vis-à-vis the provisions of the Karnataka Land Reforms Act as amended from 1.3.1974, especially of the Co-operative Societies, which should hold land prior to 1.3.1974 but which are prohibited from holding land after 1.3.1974.

Prior to 1.3.1974, the Co-operative Societies were entitled to acquire by sale agricultural land, under the then Section 81(b) as the then existing Land Reforms Act contained no prohibition on holding lands by Co-operative Societies. After the coming into force from 1.3.1974, of the amendment Act Co-operative Societies can only get mortgage of any land or interest. Therein as a security for any loan or other facilities given by such societies.

As there was no impediment for the Co-operative Societies to acquire agricultural lands by purchase prior to 1.8.1974, the sales in favour of Co-operative Societies prior to that date are made applicable in such cases. It was open to such Co-operative Societies which had purchased land prior to 1.3.1974 to apply for conversions under Section 95 to the Assistant Commissioner to whom the powers of the Deputy Commissioner are delegated.

With effect on and from 1.3.1974 onwards however, the provisions of the Land Reforms Act as amended are to be made applicable. These provisions do not, however, apply to non-agricultural land, i.c., land which had been converted prior to 1.3.1974 under Section 95 of Karnataka Land Revenue Act for non-agricultural purposes under competent sanction or land which has to be deemed to have been converted under sub-section (5) of Section 95 of Karnataka Land Revenue Act, the statutory period of 4 months from the date of application for conversion having expired prior to 1.3.1974. The Co-operative Societies holding unconverted lands as on 1.3.1974 have to furnish declarations of such land to the Tahsildar under Section 79-B of the Land Reforms Act, who will move the Deputy Commissioner to declare such land as vesting in Government.

Further Section 91(1) relating to the disposal of pending proceeding under the Land Reforms Act introduced by Karnataka Act No. 1 of 1974 which lays down that the provisions of the principal Act as amended by karnataka Act No.1 of 1974 shall be applicable to all proceedings commended before 1.3.1974 and pending before any authority as if the principal Act as attended by Karnataka Act No. 1 of 1974 was in force when the right accrued or the liability was incurred and the authority shall deal with the proceedings accordingly.

The observations made by the High Court of Karnataka in their judgment dated 23.11.1973 in writ petitions Nos. 3436 and 3469 dated '73 are reproduced below for information and guidance –

"In these writ pititions, Mr. Shantaraju, learned High Court Government Pleader, contended that the Lands Purchased by the parties were in contravension of the provisions of the Mysore Land Reforms Act, 1961 and therefore the Tribunal should not have accorded permission for conversion.

The Contention was based on the ground that the Agricultural lands cannot be alienated without Land Reforms Act. That may be so, but the alienation ipso facto cannot be considered as invalid. It is for the Assistant Commissioner who is the prescribed authority under Section 83 of the Land Reforms Act to make a summary enquiry and determine whether the alienation in question was in contravention of the provisions of the Act. No such determination was made by the Assistant Commissioner in respect of the lands in dispute. Therefore the Deputy Commissioner while acting under Section 35 of the Land Revenue Act, cannot refuse permission for conversion."

Sd/- (N.B. Sakhardande)

Asst.Spl.Officer for L.R. & Ex-Officio
Under Secy. to Govt. Rev.Dept.

To

All the Divisional Commissioners of Divisions.
All the Deputy Commissioners of Districts.

All the Assistant Commissioners of Sub-Divisions.
All the Tahsildars of Taluks.
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No.RB/LND.HF.
Belgaum. Dated 2/1/1975.

Copy to RB/CTS and TNC for information.

For Divisional Commissioner, Belgaum.

Sl No 567

Circular Number RD 247 LRM 74

Date 10/30/74

Section Land Reforms

Subject Application of Section 39 in cases of sales of land by
the land-lord to the tenant – steps to be taken by the
Revenue Officers.

Body <u>GOVERNMENT OF KARNATAKA</u>
NO. RD 247 LRM 74 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, Dt : 30th October 1974.
<u>C I R C U L A R</u>

Sub:- Application of Section 39 in cases of sales of land by the land-lord to the tenant – steps to be taken by the Revenue Officers.

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Section 39 of the Karnataka Land Reforms Act, 1961 requires that the land-lord intending to sell the land shall give two months notice in writing to the tenant of his intention to sell the land to him. This legal requirement is of a limited application after 1.3.1974 as all lands hold those held by them under leases permitted under Section 5 of the Karnataka Land Reforms Act, 1961 have stood transferred to and vested in Government. All rights, title and interest vesting in the owners of such lands and other persons interested in such lands have ceases; and these are vested absolutely in the State Government free from all encumbrances (Section 44). Consequently Section 39 has become inoperative except in cases of soldiers and seamen. Double sales of land relations of the land-lord, if any and other illegal transactions of a date prior to 1.3.1974 may be brought to the notice of the Assistant Commissioners of the Sub-Divisions concerned for action under Section 83 of the Karnataka Land Reforms Act, 1961.

(N.B. Sakhardande)
Asst.Spl.Officer for L.R. & Ex-Officio
Under Secy. to Govt. Rev. Dept.

Sl No 572

Circular Number RD 101 LRM 74

Date 12/27/74

Section Land Reforms

Subject Conversion of Agricultural lands into non-agricultural
purposes – under Section 95 of the Karnataka Land
Revenue Act, 1964 pending implementation of
Karnataka Land Reforms Act, 1961.

Body <u>GOVERNMENT OF KARNATAKA</u>
NO. RD 101 LRM 74 Karnataka Government Secretariat,
'Vidhana Soudha',
Bangalore: Dt: 27th December 1974.

Sub: Conversion of Agricultural lands into non-agricultural purposes – under Section 95 of the Karnataka Land Revenue Act, 1964 pending implementation of Karnataka Land Reforms Act, 1961.

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The Divisional Commissioner, Bangalore in his letter No. INA.CR.8/74-75 dated 30.4.1974 has sought clarification on the point as to whether or not the applications received from the owners of tenants of land for conversion under section 95 of implementation of Karnataka Land Reforms Act, 1961.

While considering applications for conversion of agricultural lands into non-agricultural use under sec. 95 of the Karnataka Land Revenue Act, 1964, the object of the Karnataka Land Reforms Act, 1961 should be kept in view. The position in so far as tenanted land is concerned is simple; conversion cannot be sanctioned in favour of the landlord as he has ceased to have any interest in such land on and from 1.3.1974. In fact, the former landlord has no right to apply for conversion from 1.3.1974.

So far as the lands under personal cultivation are concerned, applications pending on 1st March 1974 and applications received after 1st March 1974 have to be sanctioned only if it is ensured that the conversion will not render impossible the surrender of the surplus land which may be determined in the case of the applicant. It is not necessary to work out the actual surplus before sanctioning the conversion but a rough estimate of the probable extent of land which will be left even after conversion should be made. There could be no harm in sanctioning the conversion if the extent so left is not less than the probable surplus as the objectives of the Land Reforms Act will not be defeated. It also follows that so far as the persons holding less than 10 acres of A class lands, 20 acres of rain-fed lands or 40 acres of dry land are concerned, there can be no objection at all to sanction the conversion, if the lands are under personal cultivation.

(N.B. Sakardande)

Asst. Spl. Officer for L.R. & Ex-officio
Under Secy. to Govt. Rev. Dept.

Sl No 575

Circular Number RD 79 LRM 75

Date 02/14/75

Section Land Reforms

Subject Land Reforms – Items of work requiring urgent attention
Of Tahsildars.

Body <u>GOVERNMENT OF KARNATAKA</u>
NO. RD 79 LRM 75 Karnataka Government Secretariat,
'Vidhana Soudha',
Bangalore: Dt: 14th February 1975.
<u>C I R C U L A R</u>

Sub: Land Reforms – Items of work requiring urgent attention
Of Tahsildars.

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There are several duties cast on the Tahsildars under the Karnataka Land Reforms Act. Certain duties should be discharged by the Tahsildars/Special Tahsildars without delay as delay may cause loss to the Government. In respect of the following items of work, the Tahsildars/Special Tahsildars should take immediate action.

The Tahsildar/Special Tahsildar is required is required to determine under section 50, any mortgage or other encumbrance lawfully subsisting on the land on the date of vesting in Government and land so determined by the Tahsildar/Special Tahsildar shall be a charge on the amount payable in respect of such land to the person who has created the mortgage or encumbrance. The state Government might have advanced loans on such land prior to the date of vesting. Claims of the State Government shall have precedence over other demands except those of the financing institutions which have a priority over the charge created in favour of Government by the economically backward classes especially the Scheduled Caste/Scheduled Tribe – vide Government Circular No. RDF 59 TKV 73 dated 18/8/1973. Tahsildar/Special Tahsildars shall, in respect of all lands vested in Government and notified in public notice in Form 8, determine the amount due to Government and keep ready the demand list for recovery out of the amount to be paid to the landlord. Due to any lapse on the part of the Tahsildar/Special Tahsildar if any loss is caused to Government, the Tahsildar/Special Tahsildar concerned will be personally liable for the loss so caused.

From 1.3.1974, no person owning land in excess of ceiling area shall alienate his holding by way of sale, gift, exchange or otherwise until he furnishes the declaration and until the Tahsildar/Special Tahsildar passes an order determining the surplus land under Section 67 read with section 74. Is null and void and the land is liable for forfeiture. Tahsildar/Special Tahsildar shall immediately detect such cases by scrutinising mutation slips sent by Sub-Registrars and make a report to the Assistant Commissioner concerned who is empowered to pass orders under Section 83.
(N.B. Sakharadande)
Asst. Spl. Officer for L.R. & Ex-officio
Under Secy. to Govt. Rev. Dept.
Sl No 588

Circular Number RD 358 LRM 75

Date 12/15/75

Section Land Reforms

Subject Arable lands kept fallow – taking over by Government.

Body GOVERNMENT OF KARNATAKA

NO. RD 358 LRM 75 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, Dated:15th December 1975.
CIRCULAR

Sub: Arable lands kept fallow – taking over by Government.

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It is the intention of Government that no arable land should be left fallow by farmers. This policy of the Government has already been enshrined in the existing provisions of the Land Grant Rules and the Land Reforms Act and Rules.

Under the Land Grant Rules, Government lands are granted to eligible agriculturists for cultivation with the condition that the grantee should being the land under cultivation within Deputy Commissioner may extend this time upto 5 years if he is satisfied that the grantee could not do so for bonafide reasons. For any contravention of the above condition, the grant is liable to be cancelled and the land resumed to Government free from all encumbrances.

Under the Land Reforms Act 1961 (as amended), Sections 84 and 85 empower the Assistant Commissioner having jurisdiction over any area to take over the lands which are left uncultivated for over two consecutive years and lease them to others for a period not exceeding 5 years.

Under Section 60 of the Karnataka Land Reforms Act, the lands whose occupancy rights have been registered in the name of a tenant should be resumed to Government and disposed of in accordance with the provision of Section 77 of the Land Reforms Act, if the tenant fails to cultivate the land personally for three consecutive years. There is a similar provision under Rule 26 of the Karnataka Land Reforms Rules in respect of the grantees of the surplus lands.

The above provisions are brought to the notice of all the Assistant Commissioners/Tahsildars and they are requested to take immediate action wherever necessary in accordance with the above provisions. They must ensure that no arable land is left fallow.

(B.M. Nagaraj)

Asst. Spl. Officer for L.R. & Ex-officio,
Under Secy. to Govt. Rev. Dept.

Sl No 593

Circular Number RD 78 LRM 76

Date 03/23/76

Section Land Reforms

Subject Taking over to Government – tenanted lands, if tenant withdraws his application.

Body GOVERNMENT OF KARNATAKA

NO. RD 78 LRM 76 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, Dated: 23rd March 1976.

CIRCULAR

Sub: Taking over to Government – tenanted lands, if tenant withdraws his application.

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Under Section 44 of the Land Reforms Act, all lands held by or in the possession of tenants immediately prior to 01.03.1974, (on which date the Land Reforms (Amendment) Act came into force), stand transferred to and vest in the State Government with effect from 01.03.1974. Under Section 45, a tenant is entitled to be registered as an occupant in respect of the lands of which he was a tenant before the date of vesting and which he had been cultivating personally. Sub-section (3) of section 45 lays down that the land held by a tenant immediately before the date of vesting and in respect of which he is not entitled to be registered as an occupant, shall be disposed of in the manner provided in section 77 which deals with the disposal of lands vesting in Government. Section 59 of the Land Reforms Act says that where the right to be registered as an occupant of any land by a tenant becomes ineffective, then, the Tahsildar may suo moto or on application made in this behalf, after holding an inquiry, direct that the land shall be disposed of in the manner provided in section 77. Section 44 lead with section 59 will make it clear that any tenanted land in respect of which the tenant has not filed an application or withdraws the application, shall be disposed of in the manner prescribed under section 77. There can be no question of land held by a tenant reverting to the landlord on account of the failure of the tenant to file an application under section 48-A, or withdrawal of an application after it was filed.

The point for consideration is whether in the absence of a claim by the tenant himself or in the event of the subsequent withdrawal of his claim by the tenant, it will be possible to hold that the land was tenanted and vests in Government for disposal under section 77. Where the only evidence regarding the existence of tenancy is the statement of the tenant himself and if he either does not make a claim at all in the prescribed manner, or having made one has retracted form it, it may be difficult to hold that there was a tenancy subsisting in respect of that particular land. But where there are other supporting items of evidence like entries in the Pahani, Lease Deed (registered or unregistered), past written applications form the landlords in connection with resumption proceedings etc., the fact that the land was tenanted could be established independently of any claim from any specific the vesting of all tenanted lands in the State Government under section 44 of the Land Reforms is independent of the subsequent provisions regarding determination of the question of who is the tenant of a particular tenanted land, and granting of that tenanted land to the tenant by the Tribunal and so on. Section 44 of the Act vesting all tenanted lands in the Government on 01.03.1974 stands on its own legs.

All the Chairmen and Secretaries of the Tribunal are directed to note the above position. Even in cases where the tenants withdraw their application under section 48-A or seek to compromise their case in regard to the extent of land over which they claim tenancy, a reference may be made to the Tahsildar and Special Tahsildar concerned. The latter should independently and separately examine whether there is evidence, apart such lands were tenanted immediately prior to 01.03.1974 and were in the possession of the claimant-tenant or for any other reason to hold that the lands have already vested in Government as tenanted lands. In such cases necessary under section 44-B and 77 of the Land Reforms Act shall be taken.

(B.M. NAGARAJ)
Asst. Spl. Officer for L.R. & Ex-officio,
Under Secy. to Govt. Rev. Dept.

Sl No 616

Circular Number RD 91 LRM 77

Date 03/10/77

Section Land Reforms

Subject Allotment of surplus land to the members of S.Cs/S.Ts
– Collection of applications by the officers themselves.

Body GOVERNMENT OF KARNATAKA

NO. RD 91 LRM 77 Karnataka Government Secretariat,
Vidhana Soudha,
Banagalore, dated: 10th March 1977.

<u>CIRCULAR</u>

Sub: Allotment of surplus land to the members of S.Cs/S.Ts
– Collection of applications by the officers themselves.

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According to Sec. 77 of the Karnataka Land Reforms Act, 50 percent of the lands vested as surplus or otherwise in the State Government under the various provisions has been reserved for allotment among the member of the Scheduled Castes and Scheduled

Tribes. Some instances have come to the notice of the Government where surplus lands which should have been reserved for allotment to the members of the Scheduled Castes and Scheduled Tribes, have not been actually granted to them. This may have happened because of the ignorance of the various formalities involved in the process of grant of to scheduled castes and scheduled tribes. Government, therefore desire that wherever adequate number of Scheduled Cast/Scheduled Tribe persons do not come forward with applications for allotment of surplus land under Sec. 77, the Revenue Officers should themselves take initiative and collect applications from them and place them before the Tribunal, before the Tribunal proceeds with the allotment of surplus land.

All the Assistant Commissioners, the Chairmen of the Tribunals and Tahsildars/Special Tahsildars for Land Reforms should ensure that these instructions are scrupulously followed and the benefits meant for the members of the Scheduled Castes/Scheduled Tribes under the law really reach them.

(P. Vasudeva Rao),
for Asst. Spl. Officer for Land Reforms & Ex-officio,
Under Secy. to Govt. Rev. Dept.

Sl No 635

Circular Number RD 505 LRM 78

Date 01/18/79

Section Land Reforms

Subject Land Reforms – Karnataka Land Reforms
(Amendment) Act 1978 (Act I of 1979)-
Effect of –

Body GOVERNMENT OF KARNATAKA
NO. RD 505 LRM 78 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated : 18-1-1979
<u>CIRCULAR.</u>

Sub:- Land Reforms – Karnataka Land Reforms

(Amendment) Act 1978 (Act I of 1979)-
Effect of –

The above Amendment Act has been published in the Extraordinary issue of Karnataka Gazette dated 1-1-1979 and it has come into force from that date. The effect of the various amendments contained therin is explained below for the information of all concerned.

Section 8:- By the substitution of clause (b) of sub-section (1) by a clause, rent as prescribed therein shall be the total of a single water rate, if any payable and 10 times the land revenue payable in respect of such land. This amendment is deemed to have come into force with effect from 1-3-1974. On the basis, the premium to be collected from the ex-tenants and the amount payable to ex-landlords in respect of lands chargeable with water-rate have been reduced. The premium and amount payable will therefore have to be re-calculated even in past cases and steps taken to recover excess payment, if any and the orders have to be suitably modified.

Section 38 and 104:- By the substitution of section 38 by a new Section, the agricultural labourer is made eligible for registration as owner of the dwelling house in which he ordinarily resides, with the land appurtenant thereto not exceeding 2.024 acres (Five cents). The Field Officers should ensure that the agricultural labourers are made aware of the benefits accruing under this section and that they come forward to apply for registration to the Tribunals well in time, viz. before 31-12-1979. Arrangements to receive, process and dispose of the applications should also be made from now on.

Section 48A:- Under the Amendment to Section 48A, the tenants are being afforded some more time to file applications in Form-7 for a further period of 6 months from the date of coming into force of the Amendment Act 1978 viz. 1-1-1979. The Deputy Commissioners are requested to see that this fact is given wide publicity in villages and the tenants who have not so far applied to the Tribunals due to some reason or the other, and the class of tenants specified in the new clause 34 (iiA) under Section 2(A), put in their applications. For this purpose, the Deputy Commissioners should ensure that adequate number of application forms are made available to the Tahsildars, Special Tahsildars, Revenue Inspectors and the Village Accountants. It may also be brought to the specific notice of Tribunals that Section 48 has been so amended as dispense with the necessity for the tenants to show cause for delay in submitting the applications after 31-12-1974. This amendment is deemed to have come into force with effect from 1-3-1974. Therefore, all pending applications will have to be disposed of by the Tribunals bearing this fact in mind.

Section 51:- Even small-holders whose annual income from all sources is not more than Rs.4,800/- have now been made eligible for payment of the amount due in lumpsum. Under explanation to item (ii) of the second proviso, a widow who has been widowed after 1-3-1974 is also eligible for payment in lumpsum or, an annuity, in lieu of the lumpsum payment, if she so desires.

Section 53:- In as much as the ex-landlords having an income of not more than Rs.4,800/- are now eligible for payment in lumpsum, provision has been made in this section for collection of premium from the ex-tenants of such landlords also in lumpsum. Likewise ex-tenants who held leases under religious , charitable, etc., institutions (vide Sec.51, 2nd proviso (iii) have also to pay the premium in lumpsum. Therefore, the Tahsildars/Special Tahsildars should collect the balance amount of premium from the ex-tenants of such landlords and institutions in cases where only first instalment has been collected under the unamended section.

Section 61:- The period of non-alienation under Section 61 and 77 has now been increased to 15 years, from the present 6 years. The Tahsildars/Special Tahsildars should make necessary corrections in the Form of Certificates of registration and title deeds accordingly.

Section 77:- The power of distribution of surplus land has been taken away from the Tribunals and granted to Deputy Commissioner or an Officer (to be) authorised by State Government in this behalf. Henceforth no distribution of surplus land shall be made by the Tribunal. The grants should be made in accordance with the provision with the prevision with the provisions made in Sec.77 of the Karnataka Land Reforms Act.
Section 79A:- The Deputy Commissioners will particularly note that in cases of land vesting in the State Government under sub-section 5 of Sec.79A where the acquisition of land was otherwise than by bequest or inheritance, no amount is payable for the lands taken over by Government.

Section 106:- Deletion of this section comes into force prospectively. Therefore, in future the annual payment will have to be made as prescribed in Section 51.

Section 107:- By deletion of clause (ii) in sub-section (1), it is made clear that, subject to section 110 Government lands, whether leased out or not, do not attract any of the provisions of the Karnataka Land Reforms Act, except Sec.8.

Section 118:- By the amendment to this section, an appeal against the order of the prescribed authority under Section 83 also lies to the Karnataka Appellate Tribunal. Appeal against the order of disposal of surplus land is also provided for.

Section 122A:- This section provides for reopening cases where orders under Sec.67(1) have been obtained by fraud, misrepresentation, suppression of facts, furnishing false declaration, etc. The power may be exercised suo motu or otherwise. The Government desire that wherever complaints have been received or there is prima facie evidence of fraud played upon Government by land owners, the past cases of determination of surplus should be looked into and placed before the Tribunals for review in accordance with Section 122A.

Section 126:- Under Section 8 of the Mysore Village Offices Abolition Act, 1961, if any, land granted, or continued in respect of or annexed to a village Office excluding the II inferior Village servants viz. 1. Talari, 2. Thoti, 3.Niraganti, 4. Seth sandhis or walikars, 5. Mahars, 6. Barkers, 7.Ugranis, 8. Walkars or Talwars, 9. Neeradis, 10. Baluthidars, 11. Talayari, 12. Vetti and 13. Kulwadi has been lawfully leased and such lease was subsiting on the appointed date (1-2-1963), the provisions of the tenancy law for the time being in force in that area in which the land is situate shall apply to the said lease and the rights and liabilities of the person to whom suoh land is granted under Section 5,6 or 7 (as amended by the Karnataka Act 13/78) be governed by the provisions of the said tenancy law. Under the amendment to section 126 of the Karnataka Land Reforms act 1961 such tenants have been specifically brought within the purview of the provisions of the Land Reforms Law. In Circular No.RD 390 LRM 76 dated 19-8-1976, it has been clarified that lawful leases created in respect of lands granted in favour of ex-holders of the superior village office, will be governed by the provisions of the Land Reforms Act. It has to be noted that under the new Section 7(1) inserted by the Karnataka Village Offices abolition (Amendment) Act 1978 (Act 13/1978), the unauthorised holders of service inam lands resumed under the act shall be summarily evicted and the land shall be taken possession of by the Deputy commissioner after due process. The lands so taken over are assignable to inferior Village Officers, if any, or to new grantees. In the circumstances, applications under Section 48A of the Land Reforms Act cannot be entertained in respect of such lands, and if any applications are received from the illegal tenants occupying such lands, they have to be rejected as not maintainable.

Schedule I:- By this amendment, the necessity for the State Government to notify the list of canals and Government tanks capable of supplying water for A class and B class lands has been dispensed with. The Tahsildars and Special Tahsildars should decide the classification of lands with reference to the factual position of the lands. It should also be noted that lands utilized for raising sugar-cane crop are also brought under the A or B class lands. Preparatory action should be taken to collect information needed by the Tahsildars in the cases relating to the fixation of premium and in pending cases of declaration under sec.66(4) where land classification is involved.

Under Section 43 of the Karnataka Land Reforms (Amendment) act of 1978, it is provided that the tenancy cases rejected solely on the ground that sufficient cause has not been shown for the delay beyond 31-12-1974 in filing From No.7 applications by the amended act. It is also provided that all applications for restoration under Sec.7 of the Act disposed of by the Tahsildars/Special Tahsildars shall also be re-opened and heard by the Tribunals in addition to the applications pending. This may be noted for guidance.

2. The Deputy Commissioners are requested to ensure that the above instructions are scrupulously followed.

(H.N.Ranganathan),
Asst.Spl.Officer for Land Reforms & Ex-officio
Under Secy. to Govt. Rev.Dept.

Sl No 639

Circular Number RD 169 LRM 79
Date 04/25/79
Section Land Reforms

Subject Land Reforms – Classification of lands into 'A', 'B' or 'C' under the Karnataka Land Reforms Act– Guidelines – Issued –

Body GOVERNMENT OF KARNATAKA
NO. RD 169 LRM 79 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated : 25-4-1979.
CIRCULAR

Sub: Land Reforms – Classification of lands into 'A', 'B' or 'C' under the Karnataka Land Reforms Act– Guidelines – Issued –

Detailed instructions were issued in Circular No.RD 337 LRM 74 dated 6th March 1975 for classification of lands and scrutiny of declarations filed under Section 66 by the Tahsildars. Under Act 1/79 (Karnataka Land Reforms (Amendment) Act 1978) Schedule 1A to the Karnataka Land Reforms Act has been amended dispensing with the necessity for the Government for the Government to notify irrigation works with assured irrigation facilities for 'A' class and 'B' class lands. Therefore, now the Tahsildars and Special Tahsildars for Land Reforms have to be classify the lands, without the Government notifying any irrigation works, for determining the amount payable for tenanted lands u/s 47, the premium payable u/s 48A(7), for the purpose of determination of surplus u/s 67(1)(ii), the payment for surplus land u/s 72 and collection of purchase price u/s 78 of the Act. Under Section 67(1)(ii), the Tahsildar as statutorily required to determine the classification of the land for the purpose of determination of surplus by the tribunal u/s 67. In other cases the Tahsildar has to determine the classification of land for fixing the amount payable, premium or purchase price as the case may be. It is therefore considered necessary to issue the following guide lines for the information of the Tahsildars and the Special Tahsildars.

2. The 'A' and 'B' class lands comprise lands with facilities for assured irrigation from Government canals and tanks. If such irrigation facilities are capable for supplying water for growing two crops of paddy of one crop of sugarcane in a year, the land will have to be classified as 'A' class. On the other hand, if these facilities are capable of supplying water for raising only one crop of paddy in a year or, if the land is irrigated by such lift irrigation works constructed and maintained by the State Government as are capable of supplying water for growing two crops of paddy or one crop of sugarcane in a year, such lands will be classified as 'B'. The 'C' class lands are those irrigated from any Government source of irrigation including Government run lift irrigation projects other than those falling under A or B class. This class also includes land on which paddy crops can be raised or arecanut crop is grown with the help of rain-water and lands irrigated by lifting water from a river or Government canal or Government tank where the pumping installation or other device for lifting water is provided and maintained by the land-owner. Under the same category will come the lands having facilities for irrigation from a Government source where the system of water supply is suitable for growing

only light irrigated crop, namely, crops other than paddy and sugarcane. These classifications are enumerated in Schedule-I Part-A of the Act.

3. For determining the classification, the Tahsildars/Special Tahsildars will have to look into Akarband, RTC for 1973-74 , water rate demand register for 1973-74 which are available in the Taluk Office and the notifications issued by the Public Works Department under the Irrigation Act and the Atchakat Register and the statements showing the survey numbers for which water was made available for each crop season during 1973-74, which will be available with Public Works Department. If a particular land is shown as wet or garden in the Akarband, the source from which the water is made available to that particular land is also noted in the Akarband. The Akarband shows the position as it prevailed when the settlement field work was done between 1954 and 1965. The information in the Akarband is normally also entered in the RTC which should be cross-verified.

4. The RTC and the water rate demand register will provide information whether two paddy crops or one sugar-cane crop or one paddy crop were raised or, if not, which other crop were raised. The Notification issued by the Public Works Department or the lists of survey numbers for which water was made available (or a special report obtained from the appropriate P.W.Officer) will give information whether in a given case water is assured for raising two paddy crops or one sugar-cane crop or one paddy crop in a year. Whether the source is Lift Irrigation Scheme constructed and maintained by the Government can be ascertained from the Public Works Department. Over and above all this information, field enquiry by the Tahsildar/Special Tahsildar and staff and local inspection will give information as to what crops were grown in the year and what was the source of irrigation. Such a local enquiry will, in particular, show which lands have suffered from lack of water due to the problems such as tail-end shortage etc.

5. After gathering together all the information as above, classification should be determined on the basis of the following basic criteria:

> (1) Where enquiry and RTC show that two paddy crops or one sugar-cane crop were actually raised with the perennial water supply from Government Notification or list the Public Works Department Notification or list shows that the water was available for two paddy crops;
> 2) Where perennial water was available for raising two paddy crops or one sugar-cane crop as per Public Works Department Notification/List and enquiry confirms it, but only one paddy crop was actually raised due to various reasons;
> (3) Garden lands lying adjacent to paddy and classified as 'A' Class, if such lands are so situated that they are capable of being grown with two paddy crops in a year, but for the existance of garden trees;

Such lands will have to be classified as 'A' Class lands.

6. The above principles will be applicable mutatis mutand is for determining 'B' Class lands. If a particular land cannot be classified as 'A' Class due to the above criteria, it will have to be given the lower classification of 'B' Class.

7. In this connection, it has to be borne in mind that every classification of land by the

Tahsildar/Special Tahsildar except that made under Section 67(1)(ii) is appealable. It is therefore quite necessary that a speaking order is written while determining the classification. Notes of enquiry/local inspection conducted for ascertaining the classification shall be part of the file. The order should give convincing reasons for arriving at the particular classification of the land. The copy of such determination of surplus, in addition to referring to it in the check list to be put up, to the Tribunal.

8. In respect of the lands likely to fall under 'A' or 'B' it will necessary for the Tahsildars/Special Tahsildars to obtain information from the local Assistant Engineer, Public Works Department. The Public Works Department is being requested to issue instructions to the Chief Engineers in this regard and require the Assistant Engineers to issue certificate whether a particular irrigation work was capable of supplying water for one paddy crop or two paddy crops and in cases where an irrigation work is capable of supplying assured water for two paddy crops for certain lands and for only one paddy crop in respect of other lands, they may specify such lands to enable the Tahsildars/Special Tahsildars to determine the classification.

9. In cases of determination of ceiling limit, it will be necessary for the Tahsildars/Special Tahsildars to convert one class of land into another. The formula for determining equivalent extent of different classes of land is given in Part-B of Schedule-I of the Karnataka Land Reforms, Act, 1961.Detailed instructions have already been given in Paras 2 and 3 of Government Circular No.RD 337 LRM 74 dated March 1975. They are reproduced below for ready reference.

"(2). A, B and C classes of lands are subject two ceiling limits depending on whether classification of the land is 8 annas or more or below 8 annas. Classification of the land can easily be worked out by comparing the actual rate of assessment levied on the land with the standard rate for the village. Standard rate is the rate for land with 16 annas classification. The actual rate of assessment on any land is got by reducing the standard rate proportionate to the classification of the land. Thus, if the standard rate is Rs.10 per acre and the land classification is 10 annas, the rate of assessment of the particular land will be Rs.6.25 paise per acre. As a rule of thumb, all lands whose assessment per acre is less than 50 percent of the standard rate, will have classification below 8 annas and all those whose rate of assessment is 50 percent or above the standard rate, will have classification of not less than 8 annas. The Standard rates for dry, wet and garden lands in respect of each village are noted at the top of each page of the Akarband prepared a the time of the revised settlement introduced in 1965. All that the Tahsildar has to do is to compare the standard rate applicable with the actual rate of assessment levied on the land in question and decide whether the classification of the land is 8 annas or more or less than 8 annas. Even in respect of areas where a fresh revision settlement has been ordered the classification of the land is not going to vary as the old soil classification itself has been adopted. So, the Akarbands prepared for 1965 for those areas also can be looked into to determine the valuation of the land though these revised assessments have not been brought into force.

(3). The Akarbands also provide information as to source as in 1954 and the lands benefited by them. The field work concerned with the revision settlement was done between 2954 and 1965. The Akarbands will indicate the source of irrigation, if any, on the basis of the state of affairs at the time the field work was done. The Tahsildars should, therefore, ascertain from the Assistant Engineer having jurisdiction over their Taluks particulars of the irrigation works newly constructed subsequent to 1954 and the lands benefited by them and then take further action. The Akarbands are sufficient authority regarding the source of irrigation in respect of lands which had facilities for irrigation from a Government source prior to 1954."

9. The Divisional Commissioners and the Deputy Commissioners are requested to ensure that the above instructions are scrupulously followed by the Tahsildars and the Special Tahsildars in classifying lands and working out the equivalent for determining the ceiling.

Sd/-
(R.A.NAIK)
REVENUE COMMISSIONER AND SECRETARY TO
GOVERNMENT, REVENUE DEPARTMENT.

Sl No 643

Circular Number RD 352 LRM 79

Date 06/28/79

Section Land Reforms

Subject Land Reforms – Acceptance of Mutation
entries and oral evidence by Tribunals
Controversial and uncontested – Instructions – Reg.

Body GOVERNMENT OF KARNATAKA

No.RD 352 LRM 79 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated: 28-6-1979

CIRCULAR

Sub: Land Reforms – Acceptance of Mutation
entries and oral evidence by Tribunals
Controversial and uncontested – Instructions – Reg.

A point has been raised whether the Taluk Land Tribunals can accept in evidence mutation entries and oral evidence adduced in cases of succession which are uncontroversial and contested cases, where there is a doubt about the succession or the claim regarding succession is contested, the tribunals will be well advised to insist on production by the claimant of a succession certificate issued by competent Civil Courts.

(H.N.Ranganathan),
Asst.Spl.Officer for Land Reforms & Ex-officio
Under Secy.to Govt. Rev.Dept.

Sl No 649

Circular Number RD 126 LRM 79

Date 11/26/79

Section Land Reforms

Subject Land Reforms – Grant of permission for conversion of
Land for non-agricultural use.

Body Government of Karnataka
No. RD 126 LRM 79 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated: 26-11-1979
<u>CIRCULAR</u>
Sub:- Land Reforms – Grant of permission for conversion of
Land for non-agricultural use.
- - -
Government have come across a case where an ex-tenant has obtained permission for conversion for non-agricultural use, of the land, occupancy of which had been registered in his favour under the Land Reforms Act and then sold the land so converted to somebody else.

2. Under Section 60 of the Land Reforms Act the occupant has to cultivate the land of which occupancy rights have been granted to him under the Land Reforms Act for three consecutive years and under Section 61 transfer of such lands with in a period of 15 years by sale, gift, exchange, lease or assignment, mortgage except to a Co-operative Society etc., for the purpose of loan for the cultivation or improvement of the land, is prohibited.

3. The question whether the ex-tenant can be granted permissible for conversion of the land for non-agricultural purposes has been considered by the Government. There is no provision in the Land Reforms Act prohibiting him from applying for permission for diversion of the land use under Section 95 of the Land Revenue Act. If no orders are passed and communicated within four months of the receipt of such application permission for conversion is deemed to have been granted under Section 95 of the Land Revenue Act. The Government consider it not equitable and just to prohibit the occupants from being granted permission for conversion for their bona fide non-agricultural purpose like putting up houses or such other purposes of their own. Government therefore desire that Assistant Commissioners and Deputy Commissioners should scrutinise carefully the application for conversion in respect of land occupancy of which is granted in favour of ex-tenants, and may grant permission in case conversions are requested for bonafide use. They may refuse permission in cases where they are satisfied that the main intention of the applicant is to circumvent the non-alienation condition by which he is otherwise bound.

(H.N. Ranganathan)
Asst. Spl. Officer for land Reforms & Ex-
officio Under Secy. to Govt. Rev. Dept.

Sl No 652

Circular Number RD 52 LRM 80

Date 03/11/80

Section Land Reforms

Subject Land Reforms – Working of Tribunals –
Proceedings to be in Kannada – Instructions
Issued –

Body GOVERNMENT OF KARNATAKA
NO. RD 52 LRM 80 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, Dated : 11-3-1980.

Circular

Sub:- Land Reforms – Working of Tribunals – Proceedings to be in Kannada – Instructions Issued –

Under Rule 17(1) of the Karnataka Land Reforms Rules, 1974, the records of the proceedings of the Tribunal shall be maintained in a language understood by all its members. Kannada has been introduced as official language at all levels of administration, but it is brought to the notice of Government that the Tribunal proceedings are still being written in English by the Chairmen of some of the Tribunals. This is not correct. The Deputy Commissioners are requested to ensure that all Chairmen of Tribunals take deposition of witnesses and write orders only in Kannada. Any Chairmen may however make use of English words and phrases as may be necessary to bring out exactly the purport and meaning of any expression. In the case of a Chairman whose mother tongue is not Kannada, he may continue to record the evidence in English though he too should see that the orders passed by him are, as far as possible, in Kannada

(H.N.Ranganathan)
Asst.Spl.Officer for Land Reforms & Ex-officio
Under Secy.to Govt.Rev.Dept.

Sl No 670

Circular Number RD 146 LRM 80

Date 04/18/81

Section Land Reforms

Subject Land Reforms – duties of Tahsildars and
Assistant Commissioners- regarding –
Further instructions issued –

Body GOVERNMENT OF KARNATAKA
NO. RD 146 LRM 80 Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, Dated : 18-4-1981.
CIRCULAR

Sub:- Land Reforms – duties of Tahsildars and
Assistant Commissioners- regarding –
Further instructions issued –

Attention is invited to the Government Circular No.RD 146 LRM 80 dated 26-8-1980. As stated in para 2 of the Circular, it is reinterated that the Tahsildar in charge of the Taluk and the Assistant Commissioner in charge of the revenue Sub-Division are responsible for the overall implementation of Land Reforms in their jurisdiction. The statement called for in the Circular from the Tahsildars have not yet been received. The Deputy Commissioners and the Assistant Commissioners are requested to see that the Tahsildars send the statements in proforma A B and C to the Deputy Commissioners who will have to collect them and send them on to the Government without further loss of time.

2. In his Note No.RD 44 ALR 80, dated 30-6-1980, the Adviser, Land Reforms, had requested the Government to entrust the post-Tribunal action to the Taluk Tahsildars for the following reasons.
(i)

The Tribunal order has to be given effect to in the R.T.C. by making necessary consequential entries;
(ii) Wherever necessary, the lands will have to be sub-divided and incorporated in the Revenue records;

(iii) Whenever the Tribunal-stage work is over, it is likely that the posts of Special Tahsildars are either transferred or abolished. In that event, the regular Tahsildar will have to be necessarily saddled with the post-Tribunal stage work;

(iv) Wherever premium and purchase price are recoverable in instalments, ultimately the Taluk Tahsildar has to watch the recovery of later instalments;

(v) The fixation and collection of premium and purchase price will have to enter into the Jamabandi accounts of the Taluk;

(vi) It is in the fitness of things that the Taluk Tahsildar who is concerned with the land, issues the certificate of registration, and not the Special Tahsildar, and makes consequential entries in the R.T.C.;

(vii) It is only the Taluk Tahsildar who is authorised to collect the premium as arrears of

Land Revenue. At present the tenants are reluctant pay premium for one reason or the other, and if the Tahsildar is entrusted with the post-Tribunal stage work, he is likely to show better results din the collection of premium;

(viii) In Taluks where there are no Special Tahsildars, the Taluk Tahsildars are attending to all the items of Land Reforms work. Therefore, it will not be difficult for taluk Tahsildrs to attend to post-Tribunal stagework in Taluk where there are Special Tahsildars and whose posts are sanctioned for only a limited period.

3. The Government have considered the matter and agreed with him. Therefore, it is hereby ordered that orders of the Taluk Tahsildar should be obtained in all cases of post-Tribunal action. This necessarily means that they should pass orders determining the premium payable by tenants, purchase price payable by allottees of surplus land, determining amount payable to ex-landlords, issue of certificates of registration to ex-tenants and title deed to allottees of surplus land maintaining the various accounts and registers prescribed, and the D.C.B., for purchase price and premium etc. These orders should be given effect to immediately.

4. As and when tribunal stage work decreases, the posts of Spl.Assistant Commissioners and the Spl.Tahsildars with their supporting staff are ordered to be transferred elsewhere where the work is heavy. In such cases, the Assistant Commissioners of Sub-Divisions and the Tahsildars of the Taluks concerned should ensure that all the Records. Registers and accounts are duly handed over by Spl.Assistant Commissioners and the Spl.Tahsildars respectively and taken over by the assistant Commissioners and Tahsildars concerned so that there is no hitch in post tribunal stage action being pursued by the regular offices.

(G.H.Adirajaiya),
Revenue Commissioner & Adviser, Land Reforms,
Revenue Department.

Above guidelines be kept in mind by all the concerned. This Circular is also available at the Revenue Department Internet site
http://www.revdept.kar.nic.in.
(RAJEEV CHAWLA)
Additional Secretary to Government
Revenue Department (Land Reforms)
To,
All Deputy Commissioners.
Foot Notes
For any suggestions / clarifications, please send mail to **Mr. Rajeev Chawla (Additional Secretary)**