

The Gujarat Devasthan Inams Abolition Act, 1969

Act 16 of 1969

Keyword(s):

Assessment, Authorised Holder, Code, Collector, Devasthan Inam, Devasthan Forest Inferior Holder, Inamdar, Religious Institution, Tenancy Law, Unauthorised Holder

Amendment appended: 27 of 1977

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may be filed as a separate compilation.

PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the President on the 21st October 1969 is hereby published for general information.

K. M. SATWANI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 16 OF 1969.

(First published, after having received the assent of the President in the "Gujarat Government Gazette" on the 28th October, 1969.)

An Act to abolish inams held by religious or charitable institutions in the Bombay area of the State of Gujarat and to provide for matters consequential and incidental thereto.

It is hereby enacted in the Twentieth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Devasthan Inams Abolition Act, 1969.
- (2) It extends to the Bombay area of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title,
extent and
commence-
ment.

Definitions.

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

(1) "appointed day" means the date on which this Act comes into force;

(2) "assessment" in relation to any land means—

(a) the assessment fixed on the land under the Code immediately before the appointed day, and

(b) where no assessment was so fixed on the land, the amount which would have been fixed as assessment on the land under section 52 of the Code;

(3) "authorised holder" in relation to a Devasthan land means a person in whom the ownership of such land vests permanently whether by virtue of the operation of the tenancy law or of any kind of valid transfer made otherwise than under the tenancy law;

(4) "Code" means the Bombay Land Revenue Code, 1879;

(5) "Collector" includes an officer appointed by the State Government to perform the functions and exercise the powers of the Collector under this Act;

(6) "Devasthan inam" means an inam consisting of a grant or recognition as a grant—

(a) of a village, portion of a village or land, whether such grant be—

(i) of soil with or without exemption from payment of land revenue, or

(ii) of assignment of the whole of the land revenue of the village, portion of the village or, as the case may be, land, or of a share of such land revenue, or

(iii) of total or partial exemption from payment of land revenue in respect of any land; or

(b) of cash allowance or allowance in kind by whatever name called, by the ruling authority for the time being for a religious or charitable institution and entered as such in the alienation register kept under section 53 of the Code or in any other revenue record or public record maintained in respect of alienations or determined as such by a decision under section 5 of the Gujarat Surviving Alienations Abolition Act, 1963, but does not include—

(i) revenue free sites granted by a competent authority for the construction of schools, colleges, hospitals, dispensaries or other public works from which no profit is intended to be derived, or

Bom.
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1879.

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1963.

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1963.

(ii) any alienation to which the provisions of the Gujarat Surviving Alienations Abolition Act, 1963 or of any of the laws specified in the Schedule thereto apply;

(7) "Devasthan land" means a village, portion of a village or land held under a Devasthan inam;

XVI of
1927.

(8) "forest land" means any Devasthan land or part thereof declared as forest under section 34A of the Indian Forest Act, 1927 before the appointed day, provided such declaration was in force immediately before the appointed day;

(9) "inferior holder" means a person who is in possession of a Devasthan land whether by inheritance, or succession or valid transfer under the tenancy law or otherwise and who, being liable to pay assessment in cash or kind, holds such land, whether on payment of assessment or not;

(10) "inamdar" means the religious or charitable institution for which a Devasthan inam is held, whether such inam is actually entered in the relevant revenue record in the name of such institution or of any person in charge of such institution or having the management thereof;

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

(12) "religious institution" means any institution belonging to any religion;

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of
1948.

(13) "tenancy law" means the Bombay Tenancy and Agricultural Lands Act, 1948;

(14) "unauthorised holder" means a person in possession of a Devasthan land under any kind of alienation thereof which is null and void under the law applicable to such land immediately before the appointed day;

(15) the other words or expressions used but not defined in this Act shall have the meanings assigned to them in the Code.

3. References in this Act to the incidents of Devasthan inams shall, notwithstanding the abolition of the Devasthan inams under this Act, be construed as references to the incidents as they were in force immediately before the appointed day.

Construc-
tion of
references
to incidents
of Devasthan
inams in
the Act.

4. (1) If any question arises—

(a) whether any village, portion of a village or land, is held under a Devasthan inam, or

(b) whether any Devasthan inam consists of—

Power to
decide
certain
questions
and appeal
and re-
vision.

- (i) merely a total or partial exemption from payment of land revenue, or
- (ii) a grant of soil, with or without exemption from payment of land revenue, or
- (iii) assignment of land revenue of a village, portion of village or land or a share in such land revenue, or

(c) whether any person is an inamdar, authorised holder, unauthorised holder or inferior holder,

the State Government shall after giving an opportunity to the parties to be heard and holding a formal inquiry decide the question:

Provided that the State Government may authorise any officer (hereinafter in this section referred to as "the authorised officer") to decide in the like manner questions arising under clause (a), (b) or (c).

(2) Any person aggrieved by the decision of the authorised officer under the proviso to sub-section (1) may file an appeal to the State Government within sixty days from the date of such decision.

(3) Where from a decision of the authorised officer no appeal is filed under sub-section (2), the State Government may, after the expiry of the period for filing an appeal mentioned in sub-section (2), but not later than one year from the date of the decision, call for the record of the proceedings of the authorised officer for the purpose of satisfying itself as to the legality, propriety or regularity of such proceeding or decision and may pass such order thereon as it thinks fit.

(4) The decision of the authorised officer, subject to an appeal under sub-section (2) or revision under sub-section (3) and the decision of the State Government under sub-section (1) or sub-section (2) or, as the case may be, sub-section (3) shall be final and conclusive and shall not be questioned in any suit or proceeding in any court.

(5) The provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963 shall apply to the filing of an appeal under sub-section (2). 36 of 1963.

Abolition of certain Devasthan inams together with their incidents and Devasthan lands to be liable to payment of land revenue.

5. Notwithstanding any usage or custom, settlement, grant, agreement, sanad or order or anything contained in any decree or order of a court or any law for the time being applicable to any Devasthan inam, with effect on and from the appointed day—

(a) all Devasthan inams except in so far as they consists of a grant or recognition as a grant of cash allowance or allowance in kind shall be and are hereby abolished;

(b) save as expressly provided by or under this Act, all rights legally subsisting immediately before the said day, in the Devasthan inams so abolished and all other incidents of such inams shall be and are hereby extinguished; and

(c) subject to the other provisions of this Act, all Devasthan lands shall be and are hereby made liable to the payment of land revenue in accordance with the provisions of the Code and the rules made thereunder, and accordingly the provisions therein relating to unalienated land shall apply to all Devasthan lands.

6. In the case of a Devasthan land, the person deemed to be the occupant primarily liable to the State Government for payment of land revenue in respect of such land in accordance with the provisions of the Code and the rules made thereunder shall be,—

Occupancy rights in respect of Devasthan land.

(a) where such land is in possession of the inamdar and had been cultivated on behalf of the inamdar immediately before the appointed day, the inamdar,

(b) where such land is in the possession of an authorised holder or an inferior holder, such authorised holder or inferior holder, as the case may be, and

(c) where such land is in possession of a person other than the inamdar, authorised holder, unauthorised holder or inferior holder, the inamdar.

7. (1) Where any Devasthan land is in the possession of an unauthorised holder, it shall be resumed and such unauthorised holder shall be summarily evicted therefrom by the Collector in accordance with the provisions of the Code:

Eviction of unauthorised holder and regrant of Devasthan land to him in certain circumstances and disposal of land not regranted.

Provided that where in the case of any unauthorised holder the State Government is of opinion that in view of the investment by such holder in the development of the land or in the non-agricultural use of the land or otherwise, the eviction of such holder from the land will involve undue hardship to him, the State Government may direct the Collector to regrant the land to such holder on payment of such amount and subject to such terms and conditions as the State Government may determine and the Collector shall regrant the land to such holder accordingly.

(2) Devasthan land which is not regranted under sub-section (1) shall be disposed of in accordance with the provisions of the Code and the rules made thereunder applicable to the disposal of unoccupied unalienated land.

8. All public roads, lanes and paths, the bridges, ditches, dikes and fences, on or beside the same, beds of creeks below high water mark, and beds of rivers, streams and nallas, lakes, wells, tanks, canals and water courses, and all standing and flowing water, and all lands (excluding lands used for building or other non-agricultural purposes) in respect of which no person is deemed to be an occupant under this Act, and all mines whether being worked or not and minerals, whether discovered or not and all quarries, which are situate within the limits of any Devasthan land shall, except in so far as any rights of any person other than the inamdar may be established in or over the same and except as may otherwise be provided by any law

All public roads, etc., situate in Devasthan land to vest in Government.

for the time being in force, vest in, and shall be deemed to be with all rights in or over the same or appertaining thereto the property of the State Government and all rights held by an inamdar in such property shall be deemed to have been extinguished and it shall be lawful for the Collector, subject to the general or special orders of the State Government, to dispose of them as he deems fit, subject always to the rights of way and other rights of the public or of individuals legally subsisting.

Compensation in form of cash annuity.

9. In the case of a Devasthan inam not consisting of a grant or recognition as a grant of cash allowance or allowance in kind, there shall be paid to the inamdar as compensation for the abolition of all his rights in Devasthan inam, in the form of an annuity in perpetuity,—

(a) a sum of money equal to an average of the full assessment lawfully leviable on all the lands comprised in such inam during a period of three years immediately preceding the appointed day, if the grant consisted of grant of soil with or without exemption from payment of land revenue,

(b) a sum of money equal to an average of the amount of land revenue or, as the case may be, the share in such land revenue received or due to the inamdar during a period of three years immediately preceding the appointed day, if the grant consisted of assignment of land revenue or a share in such land revenue.

Method of awarding compensation to inamdar.

10. (1) Any inamdar entitled to compensation under section 9 shall within the prescribed period apply in writing to the Collector for determining the amount of compensation payable to him, under the said section.

(2) On receipt of an application under sub-section (1) the Collector shall after making formal inquiry in the manner provided by the Code make in such form as may be prescribed an award determining the amount of compensation.

Method of awarding compensation for abolition etc., of rights of other person in property.

11. (1) If any person is aggrieved by the provisions of this Act as abolishing, extinguishing or modifying any of his rights to or interest in, property and if compensation for such abolition, extinguishment or modification has not been provided for in the other provisions of this Act, such person may apply to the Collector for compensation.

(2) The application under sub-section (1) shall be made to the Collector in the prescribed form within the prescribed period. The Collector shall, after holding a formal inquiry in the manner provided by the Code, make an award determining the compensation in the manner and according to the method provided for in sub-section (1) of section 23 and section 24 of the Land Acquisition Act, 1894.

(3) Nothing in this section shall entitle any person to compensation on the ground that any Devasthan land which was wholly or partially exempt from payment of land revenue has been under the provisions of this Act made subject to the payment of full assessment in accordance with the provisions of the Code.

- 12.** (1) Every award made under section 11 shall be in the form prescribed in section 26 of the Land Acquisition Act, 1894 and the provisions of the said Act, shall, so far as may be, apply to the making of such award. Provisions of Land Acquisition Act, applicable to awards.
- (2) No award of compensation under this Act in excess of five thousand rupees shall be made by an officer not being a Collector under section 8 of the Code except with the previous approval of—
- (a) the Collector appointed under section 8 of the Code, if the amount of compensation does not exceed ten thousand rupees, or
- (b) the State Government, if the amount of compensation exceeds ten thousand rupees.
- (3) No such award of compensation in excess of ten thousand rupees shall be made by an officer who is also a Collector under section 8 of the Code, except with the previous approval of the State Government.
- 13.** An appeal shall lie against an award of the Collector to the Gujarat Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1957, notwithstanding anything contained in the said Act. Appeal against Collector's award.
- 14.** (1) The Gujarat Revenue Tribunal shall, after giving notice to the appellant and the respondent, decide the appeal and record its decision. Procedure before Revenue Tribunal.
- (2) In deciding an appeal under this Act, the Gujarat Revenue Tribunal shall exercise all the powers which a court has and shall follow the same procedure which a court follows in deciding appeals from the decree or order of an original court under the Code of Civil Procedure, 1908. v of 1908.
- 15.** Every appeal made under this Act to the Gujarat Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Collector. The provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963 shall apply to the filing of such appeal. Limitation.
- 16.** Notwithstanding anything contained in the Bombay Court fees Act, 1959, every appeal made under this Act to the Gujarat Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed. Court fees.
- 17.** (1) Subject to an appeal to the Gujarat Revenue Tribunal the award made by the Collector and the decision of the Gujarat Revenue Tribunal in appeal shall be final and conclusive and shall not be questioned in any suit or proceeding in any court. Finality of award and decision of Revenue Tribunal, and amendment of award to correct mistakes or errors.
- (2) Any clerical or arithmetical mistake in an award or any error arising therein from any accidental slip or omission may, at any time not later than three years from the date of the award, be corrected by the authority which made the award, either of its own motion or on the application of any of the parties, after giving the parties concerned an opportunity of showing cause why the mistake or error should not be corrected:

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Provided that, where an appeal is pending against the award sought to be corrected, the power conferred by this section shall not be exercised until the disposal of such appeal and the period during which the appeal was pending shall be excluded in computing the period of three years.

(3) Where a correction is made in any award under this section, the award shall be deemed to have stood corrected accordingly on and from the date on which it was made and the rights and liabilities of the parties concerned shall be enforced accordingly.

(4) Any person aggrieved by an order making the correction in the award under this section may file an appeal against such order to the State Government and subject to the decision in appeal of the State Government, the order shall be final.

Dispute as to apportionment of compensation.

18. (1) Where the amount of compensation has been determined under section 10 or 11 and if any dispute arises as to the persons to whom the same or any part thereof is payable or as to the apportionment of the same or any part thereof, the Collector shall, after holding a summary inquiry in the manner provided in the Code, decide the same.

(2) Any person aggrieved by the decision of the Collector under sub-section (1) may file an appeal to the State Government within thirty days from the date of such decision.

(3) The decision of the Collector subject to an appeal to the State Government under sub-section (2) and the decision of the State Government under sub-section (2) shall be final and conclusive and shall not be questioned in any suit or proceeding in any court.

(4) If the dispute referred to in sub-section (1) involves any question of law or is, in the opinion of the Collector of a complicated nature, then, notwithstanding anything contained in section 20, the Collector shall in the manner prescribed refer the dispute or question for decision to the Civil Court within the territorial limits of whose jurisdiction the land in respect of which the compensation has been determined is situate. On receipt of the reference the Court concerned shall, after giving notice to the parties concerned, try the question or dispute referred to and record findings thereon and send the same to the Collector. The Collector shall then pay the compensation in accordance with the said findings.

(5) Where the Collector refers a dispute or question to the Civil Court under sub-section (4), he may withhold payment to any person pending decision of the dispute.

Actions taken or things done after 18th March 1968 but before the appointed day to be void.

19. (1) Where after the 18th March 1968 but before the appointed day, the inamdar, the inferior holder or the authorised holder has taken any action or done anything in relation to Devasthan land so as to affect the rights of the tenant in respect of such land or to evict the tenant from such land, then, notwithstanding anything contained in any law for the time being in force, such action or thing shall, unless it is proved to the contrary, be deemed to have been taken or done in anticipation in order to defeat the object of this Act or the tenancy law.

(2) The inamdar, the inferior holder or the authorised holder affected by the provisions of sub-section (1) may, within the prescribed period and in the prescribed form, make an application to the Collector for a declaration that the action or thing was not taken or done in anticipation in order to defeat the object of this Act or the tenancy law.

(3) On receipt of such application, the Collector shall hold an inquiry in the manner provided by the Code and after giving an opportunity to the applicant as well as to the tenant affected by such action or thing to be heard and considering the evidence which may be produced, decide whether the action or thing was or was not taken or done in anticipation in order to defeat the object of this Act or the tenancy law, and accordingly may reject the application or by order in writing make a declaration that the action or thing was not taken or done in anticipation in order to defeat the object of this Act or the tenancy law.

(4) Where the application is rejected, the action taken or the thing done shall be deemed to be void.

(5) Where no such application is made by the inamdar, the inferior holder or, as the case may be, the authorised holder within the period prescribed under sub-section (2), the action so taken or the thing so done shall, on the expiry of such period, be deemed to be void and the tenant affected by such action or thing shall, on an application made to the Collector in that behalf, be entitled to obtain a declaration that such action or thing is void.

(6) Where any such action or thing is deemed to be or declared to be void under sub-section (4) or (5), the tenant shall be entitled to restoration of his rights as if such action was not taken or such thing was not done or, as the case may be, the tenant shall be entitled to obtain possession of the land from which he was evicted.

20. No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with, by the officer authorised under the proviso to sub-section (1) of section 4 or section 25 or the Collector, the Gujarat Revenue Tribunal in appeal, or the State Government in appeal or revision or in exercise of their powers of control.

21. All inquiries and proceedings before the officer authorised under the proviso to sub-section (1) of section 4, or section 25 or the Collector, the Gujarat Revenue Tribunal and the State Government under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

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of
1860.

22. (1) Wherever an officer authorised by the State Government in this behalf so directs, an inamdar shall deliver to him or such other officer as may be specified by him the records maintained by the inamdar relating to the Devasthan land.

(2) If the inamdar fails without reasonable cause to deliver any such records, he shall, on conviction, be punished with fine which may extend to two hundred rupees. In the case of a continuing failure to deliver any such records the inamdar shall be punished with an additional fine which may extend to twenty five rupees for every day during which such failure continues after conviction for the first failure.

- Provisions of tenancy law to govern the relations of landlord and tenants, 23. Nothing in this Act shall in any way be deemed to affect the application of any of the provisions of the tenancy law or of the Gujarat Agricultural Lands Ceiling Act, 1960, to any Devasthan land or the rights and obligations of a landlord and his tenants save in so far as the said provisions are in any way inconsistent with the express provisions of this Act.
- Application of Bom. XXIX of 1950 not affected. 24. Nothing in this Act shall be deemed to affect the operation of the Bombay Public Trusts Act, 1950 in respect of any land held by an inamdar under the provisions of this Act or of any right or liability in respect of such land of any person in charge of such religious or charitable institution or having the management therefore merely by reason of the conversion of such land as an unalienated land and application thereto of the provisions of the Code and the rules made thereunder.
- Delegation of powers. 25. The State Government may, subject to such restrictions and conditions as it may impose, by notification in the *Official Gazette*, delegate to any of its officers not below the rank of a Collector under the Code, all or any of the powers conferred on it by this Act.
- Indemnity. 26. No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done by him under this Act.
- Recovery of dues as arrears of land revenue. 27. All sums due to Government or recoverable by Government under this Act shall be recoverable as arrears of land revenue.
- Powers of officers under the Act. 28. The officers exercising powers and performing functions under this Act shall be deemed to be revenue officers and shall have and exercise as far as may be, the like authority and control as the revenue officers have and exercise under the Code, and in all matters connected with this Act, the State Government shall also have the same authority and control over the officers acting under this Act as they have and exercise over them in general and revenue administration.
- Rules. 29. (1) The State Government may, subject to the condition of previous publication, make rules for the purposes of carrying out the provisions of this Act. Such rules shall, when finally made, be published in the *Official Gazette*.
(2) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the Legislature, or to such modification as the Legislature may make during the session in which they are so laid or the session immediately following.
(3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.
- Saving. 30. Nothing contained in this Act shall affect any obligation or liability already incurred under an incident of a Devasthan inam before the appointed day or any proceeding or remedy in respect of such obligation or liability, and any such proceeding may be continued and remedy enforced as if this Act had not been passed.
- Enactments amended. 31. The enactments specified in column 1 of the Schedule shall be amended to the extent specified in column 2 thereof.

SCHEDULE

(See section 31)

Enactments amended

Enactments 1	Extent of amendment 2
<p>Bom. LXVII of 1948. The Bombay Tenancy and Agricultural Lands Act, 1948.</p> <p>Cesser of exemption in respect of certain public trust lands.</p>	<p>(1) In section 88B, in clause (b) of sub-section (1) for the words "Gaushala or an institution for public religious worship" the words "or Gaushala" shall be substituted.</p> <p>(2) After section 88D the following section shall be inserted, namely :—</p> <p>"88E.(1) Notwithstanding anything contained in section 88B, with effect on and from the specified date lands which are the property of an institution for public religious worship shall cease to be exempted from those provisions of the Act except sections 31 to 31D (both inclusive) from which they were exempted under section 88B and all certificates granted under that section in respect of such lands shall stand revoked.</p> <p>(2) Where any such land ceases to be so exempted, then in the case of a tenancy subsisting immediately before the specified date the tenant shall be deemed to have purchased the land on the specified date and the provisions of sections 32 to 32R (both inclusive) shall so far as may be applicable, apply.</p> <p><i>Explanation.</i>—In this section "specified date" means the date of the commencement of the Gujarat Devasthan Inams Abolition Act, 1969."</p>
<p>Guj. 16 of 1969.</p>	<p>In section 3, after sub-section (2), the following sub-section shall be inserted, namely :—</p>
<p>Guj. XXV-II of 1961. The Gujarat Agricultural Lands Ceiling Act, 1960.</p>	<p>"(3) The Devasthan lands which immediately before the date of the commencement of the Gujarat Devasthan Inams Abolition Act, 1969 were exempted under clause (d) of sub-section (1) shall with effect on and from the said date cease to be exempted lands."</p>
<p>Guj. 16 of 1969.</p>	



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PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
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The following Act of the Gujarat Legislature having been assented to by the President on the 3rd September, 1977 is hereby published for general information.

S. L. TALATI,

Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 27 OF 1977.

(First published after having received the assent of the President in the "Gujarat Government Gazette" on the 12th September, 1977).

An Act further to amend the Gujarat Devasthan Inams Abolition Act, 1969.

It is hereby enacted in the Twenty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Gujarat Devasthan Inams Abolition (Amendment) Act, 1977. Short title.

Guj.
16 of
1969.

2. In the Gujarat Devasthan Inams Abolition Act, 1969, in section 11,—

Amendment
of section 11
of Guj. 16
of 1969.

(i) in sub-section (1), for the words "If any person", the words "If any person other than an inamdar" shall be, and shall be deemed always to have been, substituted;



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(ii) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Notwithstanding anything contained in any judgment, decree or order of any Court or other authority, nothing in sub-section (1) as it stood before the commencement of the Gujarat Devasthan Inams Abolition (Amendment) Act, 1977 shall be deemed ever to have entitled an inamdar to claim any compensation under this section for the abolition, extinguishment or modification of any of his rights to, or interest in, property.”.