

The Delhi Land Revenue Act, 1954

(Act No. 12 of 1954)

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An Act to consolidate and amend the law relating to land revenue and the jurisdiction of Revenue Officers in the State of Delhi

Whereas it is expedient to consolidate and amend the law relating to land revenue and the jurisdiction of Revenue Officers in the State of Delhi.

It is hereby enacted as follows:—

CHAPTER I
PRELIMINARY

1. Title, extent and commencement—(1) This Act may be called the Delhi Land Revenue Act, 1954.

(2) It extends to the whole of the Union territory of Delhi, except any area specified in sub-section (2) of Section 1 of the Delhi Land Reforms Act, 1954.

(3) It shall come into force on such date as the Chief Commissioner may, by notification of the Official Gazette, appoint.

2. Repeal and savings—(1) The following Acts, in so far as they apply to areas to which this Act applies, are hereby repealed:—

- (i) the Punjab Land Revenue Act, 1887.
- (ii) the U.P. Land Revenue Act, 1901.
- (iii) so much of any other law or of any rule having the force of law for the time being in force as is inconsistent with the provisions of this Act.

(2) Notwithstanding such repeal, all rules, appointments, assessments, partitions and transfers made, notifications, proclamations and orders issued, authorities and powers conferred, farms granted, record-of-rights and other records framed, rights acquired, liabilities incurred, rents fixed, places and times appointed and other things done, under any of the enactments hereby repealed shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been respectively made, issued, conferred granted, framed, acquired, incurred fixed, appointed and done under this Act.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portions thereof.

3. Definitions—In this Act, unless the context otherwise requires:

- (1) "Chief Commissioner" means the Chief Commissioner of the ¹[Union territory of Delhi];
- (2) "Deputy Commissioner" means the Collector;
- (3) "minor" means a person who, under Section 3 of the Indian Majority Act, 1875, has not attained his majority;
- (4) "prescribed" means prescribed by rules made under this Act;
- (5) "revenue" means land revenue;
- (6) "revenue court" means all or any of the following authorities, that is to say, the Chief Commissioner, the Deputy Commissioner, Additional Collector, Revenue Assistant, Assistant Collector, Settlement Officer, Assistant Settlement Officer, Record Officer, Assistant Record Officer and Tehsildar;
- (7) "revenue-free", when applied to land means land whereof the revenue has either wholly or in part been released, compounded for, redeemed or assigned;

(8) "Revenue Officer" means any officer employed under this Act in preparing or maintaining revenue records, or in connection with work in relation to land revenue;

1. Subs. by A.O. (No. 5) 1957

(9) "settlement" means settlement of the land revenue;

(10) words and expression agricultural year, Asami, Bhumidhar, cess, charitable purpose, estate, Gaon Sabha, holding, land, rent, village or any other expressions, not defined in this Act and used in the Delhi Land Reforms Act, 1954, shall have the meaning assigned to them in the Delhi Land Reforms Act, 1954.

CHAPTER II

APPOINTMENT AND JURISDICTION

4. Controlling powers of Chief Commissioner—The control of all judicial and non-judicial matters connected with the land revenue in the Union territory, including matters connected with settlement, is vested in the Chief Commissioner.

5. Appointment of Additional Collectors—The Chief Commissioner may appoint an officer serving under the Government of the Union territory as an Additional Collector.

6. Powers and duties of an Additional Collector—(1) An Additional Collector shall exercise such powers and perform such duties of the Deputy Commissioner in such cases or classes of cases as the Chief Commissioner or, in the absence of order from the Chief Commissioner, the Deputy Commissioner may direct.

(2) This Act and every other law for the time being applicable to a Deputy Commissioner shall apply to every Additional Collector, when exercising any powers or discharging any duties under Sub-section (1), as if he were the Deputy Commissioner of the ¹[Union territory].

7. Assistant Collector or Revenue Assistant—(1) The Chief Commissioner may appoint as many other persons as he thinks fit to be Revenue Assistants or Assistant Collectors.

(2) All Revenue Assistants or Assistant Collectors and all other Revenue Officers in the ¹[Union territory] shall be subordinate to the Deputy Commissioner and shall exercise all the powers and discharge all the duties conferred and imposed upon them by or under this Act or any other law for the time being in force, subject to the control of the Deputy Commissioner.

8. Tehsildars and Naib-Tehsildars—The Chief Commissioner may appoint as many persons as he thinks fit to be Tehsildars and Naib-Tehsildars.

9. Subordination of Revenue Officers—Subject to the general control of the Deputy Commissioner, every Revenue Officer of a tehsil shall be subordinate to the Revenue Assistant.

1. Subs. by A.O. (No. 5) 1957.

10. Creation or alteration of the limits of Tehsil and Sub-Division—The Chief Commissioner may create a new tehsil or alter the limits of an existing tehsil:

Provided that if more Tehsils than one are created, each tehsil shall form into a sub-division and may, if necessary, be placed under a separate Revenue Assistant.

11. Deputy Commissioner in case of temporary vacancy—If the Deputy Commissioner dies or is disabled from performing his duties, the officer who succeeds temporarily to the Chief Executive Administration in revenue matters shall be deemed to be the Deputy Commissioner under this Act until a successor is appointed.

CHAPTER III

(A) Patwaris and Kanungos

12. Power to form and alter Patwaris' halkas—The Deputy Commissioner may, with the previous sanction of the Chief Commissioner, arrange the villages of the ¹[Union territory] in Patwaris, halkas and may from time-to-time, after the number and limits of such halkas; but no such arrangement or alteration shall be final unless and until it has been sanctioned by the Chief Commissioner.

13. Appointment etc. of Patwaris—The Deputy Commissioner or a Revenue Assistant, duly empowered in this behalf by the Chief Commissioner, shall appoint a Patwari to each halka, and may, subject to the rules made under Section 84, order the transfer, removal, dismissal or any other punishment of Patwaris.

14. Appointment of Kanungos—One or more Kanungos may, subject to rules made under Section 84, be appointed for the proper supervision, maintenance and correction of the annual register and for such other duties as the Chief Commissioner may, from time-to-time, specify.

15. Patwaris and Kanungos to be public servants, and their records public records—Every Patwari and Kanungo, and every person appointed temporarily to discharge and duties of any such office, shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, and all official documents kept by any such officer shall be held to be public records and the property of the Government.

(B) Maps and Records

16. Maintenance of map and field-book—The Deputy Commissioner, shall, in accordance with rules made under Section 84, maintain a map and field-book of each village, and shall cause annually, or at such longer

1. Subs. by A.O. (No. 5) 1957.

intervals as the Chief Commissioner may prescribe, to be recorded therein all changes in the boundaries of each village or field and shall correct any errors which are shown to have been made in such map or field-book.

17. Obligations of Bhumidhars and Gaon Sabhas as to boundary marks—(1) It shall be the duty of every Bhumidhar to maintain and keep in repair at his own cost the permanent boundary marks lawfully erected on his fields.

(2) It shall be the duty of the Gaon Sabha to maintain and keep in repair at its own cost the permanent boundary marks lawfully erected on the village situate within its jurisdiction.

(3) The Deputy Commissioner may at any time order a Bhumidhar or a Gaon Sabha, as the case may be:—

- (a) To erect proper boundary marks on such fields or villages;
- (b) To repair or renew in such form and nature as may be prescribed all boundary marks lawfully erected thereon.

If such order is not complied with, within 30 days from the communication thereof, the Deputy Commissioner shall cause boundary marks to be erected, repaired or renewed and shall recover the charges incurred from the Bhumidhar or the Gaon Sabha concerned in such proportion as he thinks fit.

18. Penalty for injury to, or removal of marks—The Deputy Commissioner may order any person found to be guilty before him or wilfully erasing, removing or damaging a boundary or survey mark to pay such sum, not exceeding fifty rupees, for each mark so erased, removed or damaged as may be necessary to restore it, and to reward, if necessary, the person through whom the information was obtained. When such sum cannot be recovered, or if the offender cannot be discovered, the Deputy Commissioner shall restore the mark and recover the cost thereof from such of the Bhumidhars or Gaon Sabhas of co-terminus fields or villages, as the case may be, as he thinks fit.

19. List of villages—The Deputy Commissioner shall cause to be prepared and maintained in the prescribed form a list of all villages and shall show therein in the prescribed manner the areas—

- (a) liable to fluvial action,
- (b) having precarious cultivation, and
- (c) the revenue whereof has either wholly or in part been released, compounded, redeemed or assigned.

Such lists shall be revised every five years in accordance with the rules framed in that behalf.

20. Record of rights—(1) There shall be a record-of-rights for each village subject to such exceptions as may be prescribed.

(2) The record-of-rights shall consist of a register of all persons cultivating or otherwise occupying land specifying the particulars required

by Section 40.

COMMENTS

Determination of entries in record of rights—Insofar as the Delhi Land Revenue Act is concerned, it is apparent that Section 20 thereof requires that there should be record-of-rights for each village, subject to exceptions which may be prescribed. Section 22 provides for the reporting of a succession of transfer or possession. Subsection (1) of Section 22 stipulates that, inter alia, any person obtaining possession as Bhumidhar or Asami by succession or by transfer of any land in village, which is required to be recorded in the register of the Record of Rights as per Section 20, is required to report such succession or transfer to the Tehsildar. On such report being made, the procedure to be adopted by the Tehsildar is prescribed u/s 23 of the Delhi Land Revenue Act. The Tehsildar may also adopt the procedure prescribed therein upon facts which otherwise come to his knowledge. The Tehsildar is required to make an inquiry. In undisputed cases, if the succession or transfer appears to have taken place, the Tehsildar is required to direct the Patwari of the Halka to record the same in the annual register. However, in the case of a disputed succession or transfer or where the Tehsildar finds that it is in contravention of the provisions of Delhi Land Reforms Act, 1954, he is required to refer the case to the Revenue Assistant, who is to decide it after such inquiry, as may be prescribed and where necessary, direct the annual register to be amended accordingly. *Smt. Kiran Diwania v. Financial Commissioner, Delhi and others, 2013 (138) DRJ 198*

Devolution of Bhumidhari rights—**Determination of**—The persons entitled to have their names placed in the record of rights have to be determined in terms of the Delhi Land Reforms Act. Whenever there is a succession or transfer, it has to be in terms of the Delhi Land Reforms Act and if it is so, the same needs to be recorded in the annual register of the record of rights maintained under the Delhi Land Revenue Act. The issue is with regard to how the Bhumidhari right of Smt. Manbhari is to devolve. That issue has to be examined in the context of, inter alia, Sections 48, 50, 51, 53, as also the provisions of the Hindu Succession Act, 1956. Those provisions are to be examined before it can be determined as to who would be entitled to have his or her name entered in the record of rights. But, it is not now open to the revenue authorities or the Civil Court to examine the issue with regard to the genuineness of the Will dated 19.06.1967 which, upon the grant of probate stands concluded. The execution of the Will by Smt. Manbhari in favour of Smt. Kiran Diwania is not open to challenge any further. Section 227 of the Indian Succession Act, 1925 specifically stipulates that the probate of a Will, when granted establishes the Will from the death of the Testator and renders valid all intermediate acts of the Executor as such. *Smt. Kiran Diwania v. Financial Commissioner, Delhi and others, 2013 (138) DRJ 198*

21. The Annual Register—(1) The Deputy Commissioner shall maintain the record-of rights, and for that purpose shall annually, or at such longer intervals as the Chief Commissioner may direct, cause to be prepared an amended register mentioned in Section 20; and the register so prepared shall be called the Annual Register.

(2) The Deputy Commissioner shall cause to be recorded in the

Annual Register all changes that may take place and any transaction that may affect any of the rights or interests recorded, and shall therein correct any errors proved to have been made in the record-of-rights or in any annual Register previously prepared.

(3) No such change or transaction shall be recorded without the order of the Deputy Commissioner, Revenue Assistant or, as hereinafter provided, of the Tehsildar or any other Court as constituted under any law for the time being in force.

22. Report of succession or transfer of possession—(1) Every person obtaining possession on admission by the Gaon Sabha as Bhumidhar or Asami or by succession or by transfer other than a lease permitted under the Delhi Land Reforms Act, 1954, of any land in a village which is required to be recorded in the register specified in Section 20 shall report such admission, succession or transfer to the Tehsildar.

(2) In the case of any admission by the Gaon Sabha as Bhumidhar or Asami or of a succession or transfer, other than a lease permitted under Delhi Land Reforms Act, 1954, the report shall be made immediately after it has taken place.

(3) In the case of lease permitted under the Delhi Land Reforms Act, 1954, the report shall be made by lessor immediately after the lease has been delivered possession thereunder.

(4) If the person so succeeding, or otherwise obtaining possession, or, in the case of a lease, the lessor is a minor or otherwise disqualified, the guardian or other person who has charge of his property shall make the report required by this section.

(5) No revenue court shall entertain a suit or application by the person so succeeding or otherwise obtaining possession or, in the case of a lease, by the lessor until such person has made the report required by this section.

Explanation—The word 'transfer' includes—

- (i) a family settlement by which the holding or part of the holding recorded in the record-of-rights in the name of one or more members of that family is declared to belong to another or other member, or
- (ii) an exchange of holding under Section 40 of the Delhi Land Reforms Act, 1954.

COMMENTS

Mutation—When of no consequence—It is settled law that entries in revenue records are only for fiscal purposes and they create no title. The mutation of the property neither confers title nor takes it away. Once a Registered Sale Deed has been proved on record by the Appellant, unless there is contra evidence to suggest that the sale document is not a genuine one, the Appellant stands vested with the right, title and interest in the property in question. Mutation or the lack of it would have no bearing on the aspect of title.

P.N. Mehra v. Union of India and others, (2013) 2 AD (Del.) 205 : (2013) 134 DRJ 387

23. Procedure on report—The Tehsildar, on receiving such report or upon the facts otherwise coming to his knowledge, shall make such inquiry as appears necessary and in undisputed cases, if the succession or transfer appears to have taken place, shall direct the Patwari of the halka to record the same in the Annual Register, if the succession or transfer is disputed or the Tehsildar finds that it is in contravention of the provisions of the Delhi Land Reforms Act, 1954, he shall refer the case to the Revenue Assistant, who shall decide it after such inquiry as may be prescribed and where necessary, direct the Annual Register to be amended accordingly.

COMMENTS

Scheme of provisions—The provisions of Section 23 of the Delhi Land Revenue Act fall in line with the overall scheme of the two pieces of legislation. It is clear indication of the legislative intent that whenever a question relating to violation of Section 33 of Delhi Land Reforms Act arises for consideration, the same must be referred to Revenue Assistant who is the designated authority to adjudicate upon the same. It follows as a corollary that revenue officers exercising powers under the Land Revenue Act cannot assume to himself the jurisdiction which must be referred for determination of the authority competent to do so. *Mayank Vashishth v. Financial Commissioner*, 2004 (114) DLT 162.

Mutation Without Notice to Joint Bhūmidars—Absence of a notice to the respondents and the consequent failure of a rival contention before the Naib Tehsildar could not possibly confer jurisdiction upon the Naib Tehsildar for it goes without saying that if a notice had been issued, the rival claim would have raised a dispute regarding the proposed mutation which would have in turn taken the matter out of the jurisdiction of the Naib Tehsildar. On either count, therefore, the order of mutation passed by Naib Tehsildar is unsustainable and could, justifiably be set aside by the appellate authorities. *Mayank Vashishth v. Financial Commissioner*, 2004 (114) DLT 162.

24. Powers to prescribe fees for mutation—(1) The Chief Commissioner may prescribe proper fees for mutations in the register:

Provided that no fee for a single mutation shall exceed rupees five.

(2) Such fees shall be levied from the person in whose favour the mutation is made.

25. Fine for neglect to report—Any person neglecting to make the report required by Section 22 within three months from the date of obtaining of delivery of possession, as the case may be, under a lease or other transfer, or from the date of succession, shall be liable to a fine not exceeding five times the amount of the fee which would otherwise have been payable under Section 24, or, when no fee is payable, not exceeding such amount as the Chief Commissioner may prescribe.

COMMENTS

Imposition and recovery of fine—Revenue authorities can impose a mutation fine and recover the same after the application for mutation is allowed.

Shakuntala Devi v. FCI, 2009 (161) DLT 300.

26. Correction of mistake or error in Annual Register—The Deputy Commissioner may, on his own motion and, shall, on the application of any person, correct any mistake or error in the Annual Register.

COMMENTS

Not barred by limitation—The proceeding for correction in annual register do not attract Limitation Act. Application for correction of errors cannot be barred by limitation. *Shakuntala Devi v. FCI*, 2009 (161) DLT 300.

Jurisdictional authority to correct entries—There is no provision which could enable the SDM to correct the revenue record. It is the concerned Deputy Commissioner who can do so either suo moto or on the application filed by the affected party. Without going touching upon the merits of this case and commenting upon the status of the applicant- Kishan Pal, I find that initiation of the proceedings by the concerned SDM to correct the revenue record is contrary to Section 26 of The Delhi Land Revenue Act, 1954. On this short ground alone, impugned order (Annexure P-8) deserves to be set aside. *Mohit Tiwari v. Govt. of NCT of Delhi*, (2012) 129 DRJ 317.

27. Settlement of disputes as to entries in Annual Register—(1) All disputes regarding entries in the Annual Register based on the question whether a particular area of land is held and occupied for a public purposes or a work of public utility shall be referred to the Deputy Commissioner, who shall direct the party concerned to obtain a declaration of the Chief Commissioner under sub-section (4) of Section 1 of the Delhi Land Reforms Act, 1954.

(2) All other disputes regarding entries in the Annual Register shall be decided by the Tehsildar on the basis of possession.

(3) If in the course of an inquiry into a dispute under sub-section (2), the Tehsildar is unable to satisfy himself as to which party is in possession, he shall ascertain by summary inquiry who is the person best entitled to the land, and shall put such person in possession.

(4) No order as to possession passed under this section shall debar any person from establishing his right to the land in any civil or revenue Court having jurisdiction.

Explanation—The term 'possession' in this section means possession based on admission, succession, transfer or lease referred to in Section 22.

COMMENTS

Procedure under the provision—Law has specifically barred filing of civil suits in respect of agricultural land and has provided an elaborate procedure under revenue laws and only Revenue Authorities have been given power to decide the issues in respect of agricultural land. Section 79 of Delhi Land Revenue Act gives power to the Revenue Assistant to order alterations in the annual register and to enquire into and decide cases of reported transfers.

Section 27(3) provides that in the course of an enquiry into a dispute regarding possession if Tehsildar is unable to satisfy himself as to which party is

in possession, he has to ascertain the same by summary enquiry and after ascertaining this he has to put such person in possession.

Section 64 provides that in case any of the party was not satisfied with the order passed by Revenue Assistant Collector or Tehsildar then appeal lies to different Revenue Authorities. There is provision for first appeal and second appeal. Thus this Court cannot consider the issue of possession of the agricultural land and plaintiffs have to approach only Revenue Authorities to establish their possession over the property and not the Civil Court. *Phulwari v. Ram Dei*, 2008 (150) DLT 105.

Cultivatory possession—Determination of—The Tehsildar, Narela, has rejected the claim of the petitioner as to cultivatory possession on the ground that he was government servant and was staying in Delhi, therefore, not possible for him to cultivate the land. This reasoning of the Tehsildar is perverse and arbitrary for the reason that for cultivation of a land the physical possession is required not the personal presence. Moreover, a person can get paid services of any number of workers to cultivate the land. It is not necessary that the petitioner himself ought to have ploughed his field or should know exactly, who is the real owner of the Tractor being used for ploughing his field. However, his possession over the land is important, which the petitioner has established in view of the witnesses examined and material placed on record. *Sukhbir Singh Kemwal v. GNCT of Delhi*, (2014) 146 DRJ 202.

28. Settlement of boundary disputes—(1) All disputes regarding boundaries shall be decided by the Deputy Commissioner, as far as possible, on the basis of existing survey maps, but if this is not possible, the boundaries shall be fixed on the basis of actual possession.

(2) If in the course of any inquiry into a dispute under this section, the Deputy Commissioner is unable to satisfy himself as to which party is in possession, or if it is shown that possession has been obtained by wrongful dispossession of the lawful occupants of the property within a period of three months previous to the commencement of the inquiry, the Deputy Commissioner—

- (a) in the first case, shall ascertain by summary inquiry who is the person best entitled to the property, and shall put such person in possession; and
- (b) in the second case, shall put the person so dispossessed in possession and shall then fix the boundary accordingly.

29. Procedure when rent or revenue payable is disputed—In case of any dispute regarding the revenue or rent payable by a Bhumidhar or Asami, the Deputy Commissioner shall not decide the dispute, but shall record as payable for the year to which the Annual Register refers the revenue or rent payable for the previous years unless it has been enhanced or abated by an order or agreement under this Act or the Delhi Land Reforms Act, 1954.

30. Entries in the Annual Register to be presumed to be true—All entries in the Annual Register shall, until the contrary is proved, be

presumed to be true.

31. Obligation to furnish information necessary for the preparation of records—Any person, whose rights, interests or liabilities are required by any enactment for the time being in force or by any rule made under any such enactment to be entered in any official register by a Kanungo or Patwari, shall be bound to furnish, on the requisition of the Kanungo or Patwari or of any Revenue Officer engaged in compiling the register, all information necessary for the correct compilation thereof.

32. Inspection of records—All maps, field-books, lists and registers kept under this Act shall be open to public inspection at such hours and on such conditions as to fees or otherwise as the Chief Commissioner may prescribe.

CHAPTER IV

REVISION OF MAPS AND RECORDS

33. Notification of record operations and its effect—If the Chief Commissioner considers that, in the whole or part of the ¹[Union territory], general or partial revision of the records or a re-survey, or both, should be made, he shall publish a notification in the Official Gazette to that effect and every such area shall be held to be under record or survey operations, or both, as the case may be from the date of the notification until the issue of another notification declaring the operation to be closed therein.

34. Record Officers—The Chief Commissioner may appoint an officer, hereinafter called the Record Officer, to be in charge of the record operations or the survey, or both, as the case may be, in any area and as many Assistant Record Officers as to him may seem fit, and such officers shall exercise all the powers conferred on them by this Act so long as such area is under record or survey operations, as the case may be.

35. Powers of Record Officer as to erection of boundary marks—When any area is under survey the Record Officer may issue a proclamation directing all Gaon Sabhas and Bhumidhars to erect, within 15 days, such boundary marks as he may think necessary to define the limits of the villages and fields; and in default of compliance within the time specified in the proclamation, he may cause such boundary marks to be erected, and the Deputy Commissioner shall recover the cost of their erection from the Gaon Sabha or the Bhumidhar concerned.

36. Decision of disputes—In case of any dispute concerning any boundaries, the Record Officer shall decide such dispute in the manner prescribed in Section 28.

37. Records to be prepared in re-survey—When any area is under survey, the Record Officer shall prepare for each village therein a map and field-book, which shall thereafter be maintained by the Deputy

1. Subs. by A.O. (No. 5) 1957.

Commissioner as provided by Section 16 instead of the map and field-book previously maintained.

38. Preparation of new record-of-rights—Where any area is under record operations, the Record Officer shall frame for each village therein the record specified in Section 20 and the record so framed shall thereafter be maintained by the Deputy Commissioner instead of the record previously maintained under Section 21.

39. Attestation of entries and decision of disputes—All undisputed entries in the record-of-rights shall be attested by the parties interested and all disputes regarding such entries, whether taken up by the Record Officer of his own motion or upon application by any party interested, shall be disposed of by him in accordance with the provisions of Sections 27, 28 and 29.

COMMENTS

Powers of SDM to pass order under Section 145 of Cr. P.C.—If entries in Khasra Girdawari are changed by Kanungo in pursuant to, no proper inquiry by Tehsildar and without documentary proof of possession, it is within competence of SDM to pass order under Section 145 Cr. P.C. As nobody's property would be safe as with one stroke of pen Patwari or Tehsildar can change possessory title of a person. *Master Nikunj Kumar Gupta v. State*, 2003(8) AD (Delhi) 75.

40. Particulars to be stated in the list of tenure and sub-tenure holders—The register of persons cultivating or otherwise occupying land specified in Section 20 shall specify as to each tenure or sub-tenure holder the following particulars—

- (a) the tenure or sub-tenure as determined under the Delhi Land Reforms Act, 1954.
- (b) the revenue and cesses or local rates or any other dues payable by the tenure-holder or rent payable by the sub-tenure holder; and
- (c) any other conditions of the tenure or sub-tenure which the Chief Commissioner may by rules require to be recorded.

Explanation—For the purposes of this section the year for which the register is prepared shall be reckoned as a complete year.

41. Presumption as to entries—All entries in the record-of-rights prepared in accordance with the provisions of this Chapter shall be presumed to be true until the contrary is proved; and all decisions under this Chapter in cases of disputes shall, subject to the provisions of sub-section (3) of Section 27, be binding on all revenue Courts in respect of the subject-matter of such disputes; but no such entry or decisions shall affect the right of any person to claim and establish in the Civil Court any interest in land which is required to be recorded in the register prescribed by Section 20.

CHAPTER V PROCEDURE OF REVENUE COURTS AND REVENUE OFFICERS

42. Place of holding Court—(1) The Deputy Commissioner may hold his Court at any place within the ¹[Union territory].

(2) An Additional Collector, a Revenue Assistant, an Assistant Collector, a Record Officer, an Assistant Record Officer, a Settlement Officer or an Assistant Settlement Officer may hold his Court at any place within the limits of his jurisdiction.

(3) A Tehsildar may hold his Court at any place within his tehsil.

43. Power to enter upon an survey land—The Deputy Commissioner, Settlement Officer, Record Officer, and their assistants, subordinates, servants, agents and workmen may enter upon and survey land, demarcate boundaries and do all acts necessary for any purpose connected with their duties under this Act or any other law for the time being in force.

44. Power of Chief Commissioner to transfer cases—The Chief Commissioner may transfer any judicial or non-judicial case or any class of such cases, including partition cases, from any subordinate revenue Court or Revenue Officer to any other such Court or officer competent to deal therewith.

45. Power to transfer cases to and from subordinates—The Deputy Commissioner, a Revenue Assistant, a Tehsildar, a Record Officer or a Settlement Officer may make over any case or class of cases, arising under the provisions of this Act or otherwise, for inquiry or decision, from his own file to any of his subordinates competent to deal with such case or class of cases, or may withdraw any case or class of cases or class of cases himself or refer the same for disposal to any other such Revenue Officer competent to deal therewith.

46. Consolidation of cases—Where more cases than one involving substantially the same question for determination and based on the same cause of action are pending in one or more Courts, they shall, on application being made by any party to the Court to which the Court or Courts concerned are all subordinate, be consolidated in one Court and decided by a single judgment. Such cases may be filed direct in the superior Court.

47. Power to summon persons to give evidence and produce documents—Any revenue Court may summon any person whose attendance it considers necessary for the purpose of any investigation, suit or other business before it. All persons so summoned shall be

1. Subs. by A.O. (No. 5) 1957.

bound to attend, either in person or by an authorised agent, as such Court may direct, and to state the truth upon any subject respecting which they are examined or make statements, and to produce such documents and other things as may be required:

Provided that persons exempt from personal attendance in Civil Court under Sections 132 and 133 of the Code of Civil Procedure, 1908, shall subject to the provisions of those sections, be exempt from personal attendance under this section.

48. **Procedure in case of non-compliance with summons**—If any person, on whom a summons to give evidence or produce a documents has been served, fails to comply with the summons, the officer by whom the summons has been issued may exercise the powers conferred on Civil Courts by Order XVI, Rules 10 to 13, 17 and 18 of the Code of Civil Procedure, 1908.

49. **Summons to be in writing, signed and sealed**—Every summons shall be in writing, in duplicate and shall be signed and sealed by the officer issuing it or by such person as he empowers in this behalf and shall be served by tendering or delivering a copy of it to the person summoned, or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence and if such person resides outside the ¹[Union territory] the summons may be sent by post to the Collector of the district concerned for service.

50. **Mode of serving notices**—Every notice under this Act may be served either by tendering, delivering or sending a copy thereof by post in a cover registered under the Indian Post Offices Act, 1898, to the person on whom it is to be served or to his authorised agent or by affixing a copy thereof at some place of public resort on or adjacent to the land to which such notice refers.

51. **Mode of issuing proclamation**—Wherever a proclamation issued under this Act, copies thereof shall be posted in the court-house of the officer issuing it, at the headquarters of the Tehsil and at some place of public resort on or adjacent to the land to which it refers and if the officer issuing it so directs, the proclamation shall further be published by beat of drum on or near the land to which it refers.

52. **Notice and proclamation not void for error**—No notice or proclamation shall be deemed void on account of any error in the name or designation of any person, or in the description of any land referred therein, unless such error has produced substantial injustice.

53. **Procedure for procuring attendance of witnesses**—If in any proceeding of a judicial nature pending before any revenue Court either party desires the attendance of witnesses, it shall follow the procedure prescribed by Order XVI, Rules 2 to 4 of the Code of Civil Procedure,

1. Subs. by A.O. (No. 5) 1957.

1908.

54. **Hearing in absence of party**—Whenever any party to such proceedings neglects to attend on the day specified in the summons or on any day to which the case may have been postponed, the Court may dismiss the case for default or may hear and determine it *ex-parte*.

55. **No appeal from orders passed *ex-parte* or by default. Re-hearing on proof of good cause for non-appearance**—No appeal shall lie from an order passed under Section 54 *ex-parte* or by default; but in all such cases, if the party against whom judgment has been given appears either in person or by agent (if a plaintiff, within 30 days from the date of such order, and if a defendant within 30 days, after such order has been communicated to him, or after any process for enforcing the judgment has been executed or at any earlier period), and shows good cause for his non-appearance and satisfies the officer making the order that there has been a failure of justice, such officer may, upon such terms as to costs or otherwise as he thinks proper, revive the case and alter or rescind the order according to the merits of the case:

Provided that no order shall be reversed or altered without previously summoning the party in whose favour judgment has been given to appear and be heard in support of it.

56. **Correction of error or omission**—Any Court or officer by whom an order has been passed in any proceeding under this Act may, within 90 days of such order, either of his own motion or on the application of a party, correct any error or omission, not affecting a material part of the case, after such notice to the parties as may be necessary.

57. **Power to refer disputes to arbitration**—The Chief Commissioner, the Deputy Commissioner, an Additional Collector, an Assistant Collector of the first class or a Revenue Assistant, a Record Officer or an Assistant Record Officer, a Settlement Officer or an Assistant Settlement Officer, may, with the consent of the parties, by order, refer any dispute before him to arbitration.

58. **Procedure in cases referred to arbitration**—In all cases of reference to arbitration under Section 57, the provisions of the Arbitration Act, 1940, shall apply so far as they are not inconsistent with anything in this Act.

59. **Application to set aside award**—Any application to set aside an award shall be made within ten days after the day appointed for hearing the award.

60. **Decision according to award**—If the officer making the reference does not see cause to remit the award or any of the matters referred to arbitration for reconsideration, and if no application has been made to set aside the award, or if he has refused such application,

he shall decide in accordance with the award, or if the award has been submitted to him in the form of a special case, according to his own opinion in such case.

61. **Bar to appeal and suit in Civil Court**—Such decision shall be at once carried out, and shall not be open to appeal unless the decision is in excess of, or not in accordance with, the award, or unless the decision is impugned on the ground that there is no valid award in law or in fact; and no person shall institute any suit in the Civil Court for the purpose of setting it aside or against the arbitrators on account of their award.

62. **Recovery of fines and costs**—All fees, fines, costs, other than costs between party and party, and other money ordered to be paid under this Act shall be recoverable as if they were an arrear of revenue. A revenue Court shall have power, subject to any special provisions in this Act, to give and apportion costs due under this Act in any proceedings before it in such manner as it thinks fit.

63. **Delivery of possession of immovable property**—When an order is made that a person be put in possession of any immovable property the officer making the order may deliver over possession in the same manner, and with the same powers in regard to all contempt, resistance, and the like, as may be lawfully exercised by the Civil Courts, in execution of their own decrees.

CHAPTER VI

APPEALS, REFERENCE AND REVISION

64. **Courts to which appeals lie**—(1) An appeal shall lie under this Act—

- (a) to the Settlement Officer or the Record Officer from orders passed by any Assistant Settlement Officer or Assistant Record Officer, respectively;
- (b) to the Deputy Commissioner or to the Additional Collector specially empowered in this behalf from orders passed by the Revenue Assistant, an Assistant Collector or Tehsildar;
- (c) to the Chief Commissioner from orders passed by the Deputy Commissioner, Additional Collector, Settlement Officer or Record Officer.

(2) No appeal shall be allowed from a non-judicial order not connected with settlement passed by the Deputy Commissioner.

65. **First appeal**—Unless an order is expressly made final by this Act, an appeal shall lie to the Court authorised under Section 64 to hear the same from every original order passed in any proceedings held under the provisions of this Act.

66. **Second appeal**—A second appeal shall lie to the Chief

Commissioner from an order deciding an appeal under Clause (a) or Clause (b) of sub-section (1) of Section 64 on any of the following grounds and no other, namely:—

- (i) the decision being contrary to law or to some usage having the force of law,
- (ii) the decision having failed to determine some material issue of law or usage having the force of law,
- (iii) a substantial error or defect in the procedure as laid down in this Act or prescribed thereunder, which may possibly have produced error or defect in the decision of the case upon the merits.

COMMENTS

Exercise of power by High Court under Article 226 of the Constitution—As per scheme of the Act, second appeal lies before the Financial Commissioner under Section 66. Financial Commissioner also has supervisory powers under Section 72 to call for files of subordinate officers and revise orders. No further appeal is envisaged in the said Act.

When exercising power under Article 226 when issuing writ of *certiorari*, the High Court would not review findings of facts reached by an inferior Court or Tribunal even if they are erroneous. The Court is exercising only supervisory and not appellate jurisdiction. It would not be for the superior Court to re-hear the case on the findings of facts and substitute its own findings. *Ravinder Singh and another v. Govt of NCT of Delhi and others*, (2016) 155 DRJ 237 : (2016) 3 AD (Del.) 324

67. **Limitation for appeal**—(1) No appeal to the Settlement Officer, the Record Officer or the Deputy Commissioner or to an Additional Collector empowered to hear appeals shall be brought after the expiration of 30 days from the date of the order complained of, unless otherwise specially provided by or under this Act or the Delhi Land Reforms Act, 1954.

(2) No appeal or second appeal to the Chief Commissioner shall be brought after the expiration of 60 days from the date of the order complained of.

68. **Appeal against order admitting an appeal**—No appeal shall lie against an order admitting an appeal on the grounds specified in Section 5 of the Indian Limitation Act, 1908.

69. **Powers of appellate court**—(1) The appellate court may either admit or summarily reject the appeal.

(2) If it admits the appeal, it may—

- (a) reverse, vary or confirm the order appealed against; or
- (b) direct such further investigation to be made or such additional evidence to be taken as it may think necessary; or
- (c) itself takes such additional evidence; or

(d) remand the case for disposal with such directions as it thinks fit.

70. Power to suspend execution of order of lower court—When an appeal is admitted, the appellate court may, pending the result of the appeal, direct the execution of the order of the lower court to be stayed.

71. Power of Deputy Commissioner, etc. to call for records and proceedings and reference to the Chief Commissioner—The Deputy Commissioner, the Settlement Officer or the Record Officer may call for and examine the record of any case decided or proceedings held by any officer subordinate to him for the purpose of satisfying himself as to the legality or propriety of the order passed and as to the regularity of the proceedings and, if he is of opinion that the proceedings taken or order passed by such subordinate officer should be varied, cancelled or reversed, he shall refer the case with his opinion thereon for the orders of the Chief Commissioner and the Chief Commissioner shall thereupon pass such orders as he thinks fit.

72. Power of Chief Commissioner to call for files of subordinate officers and to revise orders—The Chief Commissioner may call for the record of—

- (a) any non-judicial proceeding not connected with settlement, held by any officer subordinate to him, and may pass thereon such orders as he thinks fit, or
- (b) any case of a judicial nature or connected with settlement, in which no appeal lies to the Chief Commissioner, if the officer by whom the case was decided appears to have exercised jurisdiction not vested in him by law, or to have acted in the exercise of his jurisdiction illegally, or with substantial irregularity, and may pass such orders in the case as he thinks fit.

COMMENTS

Exercise of powers by the Chief Commissioner—Where the order passed by the Financial Commissioner shows that instead of going into the issue of limitation he has gone into the merits of the case while considering the revision petition. The Financial Commissioner could only have gone into the issue of limitation and taken a view as to whether there was sufficient cause shown by the appellant for condonation of delay in filing the appeal or not. In case the Financial Commissioner comes to the conclusion that there was no justification for condonation of delay in filing the appeal only then he could have dismissed the appeal as barred by limitation, but without going into the question of limitation, the Financial Commissioner could not have gone into the merits of the case. In fact in the event of the Financial Commissioner upholding the order of the Additional Collector condoning the delay in filing the appeal, he will have to refer the matter back. *Vinod Kumar and others v. Shri Amit Bansal and others*, (2013) 5 AD (Del.) 294

73. Power of Chief Commissioner to review and alter his orders and decrees—(1) The Chief Commissioner may review, and any rescind, alter or confirm any order made by himself in the course of business connected with settlement or otherwise.

(2) No decree or order passed judicially by him shall be so reviewed except on the application of a party to the case made within a period of 90 days from the passing of the decree or order, or after such period if the applicant satisfies the Chief Commissioner that he had sufficient cause for not making the application within such period.

CHAPTER VII

MISCELLANEOUS

74. Conferring powers—In conferring powers under this Act, the Chief Commissioner may empower persons by name or classes of officials generally, by their official titles, and may vary or cancel any such order.

75. Powers of officer promoted to a higher office in the Union territory—Whenever any person holding an office in the service of the ¹[Union territory], who has been invested with any powers under this Act, is promoted to a higher office of the same nature in the ¹[Union territory], he shall, unless the Chief Commissioner otherwise directs, be held to be invested with the same powers under this Act in the higher office to which he is promoted.

76. Investment of Additional Collector with powers of Deputy Commissioner—The Chief Commissioner may confer on an Additional Collector, a Revenue Assistant or an Assistant Collector of the first class all or any of the powers of the Deputy Commissioner, and all powers so conferred shall be exercised subject to the control of the Deputy Commissioner.

77. Conferring of powers on Tehsildars and Naib-Tehsildars—The Chief Commissioner may confer on any Tehsildar all or any of the powers of an Assistant Collector of the first class and on any Naib-Tehsildar all or any of the powers of Tehsildar.

78. Deputy Commissioner to have all powers of an Assistant Collector—The Deputy Commissioner may exercise all or any of the powers of an Assistant Collector under this Act or any other law for the time being in force.

79. Powers of a Revenue Assistant—A Revenue Assistant shall, as such have the following powers—

(1) to call on owners to erect or repair boundary marks, and, in default, to erect or repair the same and charge the cost to owners under

1. Subs. by A.O. (No.5) 1957

Section 17;

(2) to impose penalties under Section 18 for injuries to boundary or survey marks, and in certain cases apportion the charges or repairing boundary or survey marks;

(3) to order alterations in the Annual Register under Section 21;

(4) to enquire into and decide cases of reported transfers under Sections 23 and 26;

(5) to levy fees for mutations under Section 24, and fines under Section 25;

(6) to decide disputes and pass orders under Sections 27, 28 and 29.

80. Powers of Assistant Collectors of first class, other than a Revenue Assistant—An Assistant Collector of the first class, other than a Revenue Assistant, shall exercise all or any of the powers conferred on a Revenue Assistant in such cases or classes of cases as the Deputy Commissioner may, from time-to-time, refer to him for disposal.

81. Powers of Assistant Collector of second class—An Assistant Collector of the second class shall in addition to the powers conferred by or under any other provision of this Act, have power to investigate report on such cases as the Deputy Commissioner or the Revenue Assistant may, from time to time, commit to him for investigation and report.

82. Powers of Assistant Record Officer—An Assistant Record Officer may, subject to the control of the Record Officer, exercise all or any of the powers conferred by or under this Act on Record Officer.

83. Matters excepted from cognizance of Civil Courts—No person shall institute any suit or other proceeding in the Civil Court with respect to any of the following matters:

- (a) the arrangement of Patwaris' halkas;
- (b) claims by any person to any of the officers mentioned in Section 13 or 14 or to any emolument or fees appertaining to such office, or in respect of any injury caused by his exclusion therefrom, or claims by any person to nominate persons to such offices;
- (c) the formation of the record of rights or the preparation, signing, or attestation of any of the documents contained therein, or the preparation of the annual register.

84. Power of the Chief Commissioner to make rules—(1) The Chief Commissioner may make rules for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provided for—

- (a) prescribing the duties of Tehsildars and Naib-Tehsildars, and

regulating their postings and transfers and their appointment in temporary.

- (b) Regulating the appointment and transfer of Patwaris and Kanungos, their salaries, qualifications, duties, removal, punishment, suspension and dismissal.
- (c) prescribing the form, contents, method of preparation, attestation and maintenance of the record-of-rights and other records, maps, field-books, registers and lists made or kept under Section 20 of this Act and prescribing the kind of land, if any, in respect of which any such record need not be prepared.
- (d) regulating the imposition and realisation of fines under Section 25 for failure to notify successions or transfers.
- (e) regulating the costs which may be recovered in or in respect of any judicial or non-judicial proceeding under this Act.
- (f) generally for the guidance of, and regulating the procedure to be followed by, an officer (or other person) who under any provision of this Act is required or empowered to take action in any judicial or non-judicial matter;
- (g) defining the classes of cases, matters, business, orders or proceedings which are to be deemed judicial or non-judicial, respectively.

85. Interpretation—The provisions of the General Clauses Act, 1897 (10 of 1897), shall, apply, so far as may be, to this Act in the same manner as they apply to a Central Act.