



LAND REVENUE ADMINISTRATION IN HIMACHAL PRADESH

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Overview of Lecture

Main Sections

- General Concepts of Land Administration
- Historical Perspective of Land Administration in India and Himachal Pradesh
- Legal Significance of Record-of-Rights
- Himachal Pradesh Land Revenue Act 1954-Some Important Provisions
- Conclusion

Important Provisions

- ❖ Rules-Manuals-Procedures
- ❖ Making and Updating of ROR
- ❖ Concept of Presumption of Truth
- ❖ Correction of ROR
- ❖ Appeal, Review and Revision
- ❖ Jurisdiction of Civil Courts

I

LAND ADMINISTRATION

General Concepts

Disciplines Related to Land Administration

- Land Governance
- Land Management
- Land Administration
- Land Laws and Policies
- Land Economics
- Land Markets
- Land Tenures
- Land Disputes Resolution
- Real Estate Management
- Real Estate Regulation and Development
- Land Information Systems
- Cadastral Survey and Mapping
- Geospatial Information Management
- Land Title Register/Records

Ease of Doing Business Index

- The Ease of Doing Business (EoDB) index is a ranking system established by the World Bank Group
- Ease of Registering Property is one of the ten parameters in this index
- Since 2014 India is making earnest efforts to improve EoDB ranking
- Progress is regularly monitored at the level of the PM
- EoDB rank has improved from 142 in 2014 to 63 in 2020
- Ease of Registering Property rank has fallen from 121 in 2014 to 154 in 2020

Land Administration

Institutions, Laws, Procedures, Policies, Processes, related to:

- Land ownership and other rights in land
- Taxation relating to land
- Land use planning, control on use of land
- Land development, construction over land

Land Administration in India

- Management of Records-of-Rights
- Registration of land transactions
- Land Information System
- Property Tax
- Planning Regulations, Permissions
- Regulation on Construction, Regulation on Builders etc.

II

HISTORICAL PERSPECTIVE

Land Administration in India and HP

Expansion of British Rule in India

- Land Revenue collection rights in Bengal and Bihar and Establishment of Bengal Presidency in 1765
 - Conquests in the south between 1792 and 1801 and formation of Madras Presidency
 - In 1801 large parts of Oudh were ceded
 - Defeat of Marathas in 1818 and establishment of Bombay Presidency
 - Annexation of Punjab in 1849 after defeat of Sikhs
 - Transfer of Power from Company to the British Government-1858
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Land Revenue Settlement Systems

- **Zamindari System-** Bengal, Bihar, Orissa Central Provinces and part of Madras Presidency
- **Raiyatwadi System-** Most areas of Madras and Bombay Presidencies and Assam
- **Mahalwadi System-** North-West Provinces (UP), and Punjab

Record of Rights In India

- Introduced by British about 200 years back in UP on the Recommendation of Holt Mackenzie a British officer
- The Regulation VII of 1822 provided for making of Record of Rights for the first time
- Main purpose of ROR was to assess the income of each cultivator and impose land revenue accordingly.
- It is most comprehensive parcel-wise record of ownership and other rights over a property.
- Presumption of truth attached to the entries in ROR

Land Administration in Punjab

- After Annexation of Punjab in 1849, Mahalwadi System of North-West Provinces (U.P.) was adopted here.
- First settlement was done under the guidelines/Regulations applicable in the NWP.
- Punjab Land Revenue Act was enacted in 1871
- It was replaced by Punjab Land Revenue Act 1887 which is the current law in Punjab and Haryana

Land Administration in HP

- Himachal Pradesh was formed in 1948
- Punjab Land Revenue Act 1887 was made applicable in the new state of HP
- HP Land Revenue Act was enacted in 1954
- Hill areas of Punjab were merged in HP in 1966.
- HPLRA 1954 was made applicable in new areas in 1976

III

RECORD-OF-RIGHTS

Legal Significance

Significance of Record of Rights

- Land Revenue collection is not important now
- ROR is maintained to provide a service to the people
- Maintained under laws of respective states which are nearly similar.
- These laws are applicable in cities as well as in villages. Municipal bodies maintain only tax records.
- It is equivalent to cadastre maintained in many European countries like France, the Netherlands etc.

Cadaastre

Definition of Cadaastre by **International Federation of Surveyors (FIG)**

A cadaastre is normally a **parcel based** and up-to-date land information system containing a **record of interests in land** (i.e. rights, restrictions and responsibilities). It usually includes a **geometric description of land parcels** linked to other records describing the nature of the interests, and ownership or control of those interests, and often the **value of the parcel** and its improvements. It may be established for **fiscal purposes** (e.g. valuation and equitable taxation), **legal purposes** (conveyancing), to assist in **the management of land and land use** (e.g. for planning and other administrative purposes), and enables sustainable development and environmental protection.

Laws for ROR in Other States

Sr.No.	State	Law	Name of Ownership Record
1	Andhra Pradesh	Andhra Pradesh Record of Rights in Land Act, 1971.	ROR –Register (1-B)
2	Bihar	Bihar Land Reforms Act 1950	Chalu Khatiyani
3	Delhi	The Delhi Land Revenue Act 1954	Khatoni
4.	Karnataka	The Karnataka Land Revenue Act 1964	RTC Book (Record of Rights, Tenancy and Crops)

Laws for ROR in Other States

Sr.No.	State	Existing Law	Predecessor Laws
5	Maharashtra	The Maharashtra Land Revenue Code, 1966.	Saat-Bara, Village Form 7 & 12
6	Punjab	Punjab Land Revenue Act 1887	Jamabandi
7	Uttar Pradesh	UP Land Revenue Code 2006	Khatauni
8	West Bengal	The West Bengal Land Reforms Act 1955	Khatiyan

State Laws Related to Land Administration

- Land Revenue Act, 1954
- Tenancy and Land Reforms Act, 1972
- Transfer Of Land(regulation) Act, 1968
- Holdings (Consolidation and) Act, 1971
- Ceiling on Land Holdings Act, 1972
- Village Common Lands Vesting and Utilization Act, 1974
- Land Revenue (Surcharge) Act, 1974
- Land Holding Tax Act, 1974

Central Laws Related to Land Administration

- The Registration Act 1908
- The Transfer of Property Act 1882
- The Specific Relief Act 1963
- The Hindu Succession Act 1956
- The Indian Succession Act 1925
- The Civil Procedure Code 1908
- The Limitation Act 1963

IV

HP LAND REVENUE ACT 1954

Some Important Provisions

Rules, Manuals and Procedures

- Every Legislation requires detailed procedures for its implementation which generally are laid down in rules
- The legislature delegates power to notify rules to the Executive
- Under HPLRA also there are many provisions where rules are required to be notified by the Financial Commissioner (Revenue) or the Government

Provisions in HPLRA Requiring Rules

By Government

- Rules Regulating Procedure of Revenue Officers – Sec. 18
- Rules Regulating Appointment etc. of Kanungos and Village Officers- Sec. 29
- Rules for Assessment of Land Revenue – Sec. 64
- Rules for Regularisation of Encroachment- Sec. 163 A

By F.C. with Sanction of Government

- Rules regarding execution of orders of Civil Courts by Revenue Officers- Sec. 153
- Rules regarding various other matters- Sec. 168

Provisions in HPLRA Regarding Rules

By Financial Commissioner

- Rules for Collection of Village Officers' Cess- Sec. 30
- Rules for entry in ROR of undisputed acquisition of rights by Patwari – Sec. 36(a)
- Rules regarding forms, survey, inquiry etc. in making Record of Rights- Sec. 47 (settlement operations)
- Rules regulating collection, etc. of Land Revenue –Sec.71
- Rules for demarcation of boundaries- Sec.106
- Rules for costs of Partition- Sec.136 (3)

All Rules to be made only after previous publication- Sec. 169

Rules Notified under HP Land Revenue Act

- R& P Rules of Kanungos of Mohal, Settlement,& Consolidation Wings
- R& P Rules of Patwaris of Mohal, Settlement,& Consolidation Wings
- Land Revenue (General)Assessment Rules 1984
- Land Revenue (Special Assessment) Rules 1986
- Cancellation of Remission or Assignment of Land Revenue Rules 1966
- Land Revenue (Fees for Inspection & Copies of Extracts from Patwari's records) Rules, 1980
- Regularisation of Encroachments Rules 2002

Other Sources of Procedures

Standing Orders of Financial Commissioner

- No. 5- Inspection of Offices
- No. 8- Coercive Process for Collection of Land Revenue
- No. 12- Business Returns
- No. 13- Calendar of Settlement Operations

HP Manual

- HP Land Records Manual 1992

Other Sources of Procedures

Punjab Rules and Manuals

- Punjab Land Administration Manual 1908
- Punjab Land settlement manual 1899
- Punjab Land Revenue Rules 1888

Legal Position Regarding Procedures

- HP Government or FC have not made rules on all the subjects under HPLRA
- There is no provision regarding any Manual in the Act
- There is no provision of Standing Orders in the Act
- HP Land Records Manual and Standing Orders lay down procedures on certain subjects but they lack legal authority and are no substitute of the Rules.

Legal Position Regarding Procedures

- Language of manual is advisory at many places. At some places it refers to Punjab Rules and Manuals.
- As per Sec. 30 of HP Land Revenue (Amendment and Extension Act)1976, all Rules and notifications issued under Punjab Land Revenue Act 1887 stand repealed.
- No legal clarity whether Punjab Rules are applicable in HP
- This situation leads to increase in litigation
- Rules are required to be notified under relevant provisions of HPLRA

Making of Record of Rights

- ROR includes following documents (Sec. 33):
 - i. Jamabandi
 - ii. Statement of Customs (wajib-ul-arz)
 - iii. Map (Shajra Kishtwar)
 - iv. Any other document Prescribed by the FC
- Entries in ROR have presumption of truth (Sec. 45)
- Khasra Girdawari is not part of ROR
- No Rules are notified regarding procedure of making or revising the ROR. Punjab Settlement Manual is followed.

Making of Record of Rights

- ROR is made afresh or revised in villages notified under Sec. 33.
- No Provision in HPLRA for mandatory revision of ROR after certain period. To be done as per requirement.
- While revising ROR, resurvey may not be necessary. Settlement Manual also discourages resurveys as far as possible.
- Assessment of Land Revenue is to be revised after 20 Years (Sec. 57). No revision of ROR is necessary for reassessment of Land Revenue.
- Resurvey, revision of ROR, and reassessment together are called Settlement in HP which is a misnomer. Word 'Settlement' doesn't appear in HPLRA.

Making of Periodical Records

- Periodical Record is made at interval prescribed by FC. (Sec. 34)
- It is an updated edition of ROR, made as per provisions of the Act
- Presumption of truth attached to periodical record also.
- All changes in ROR only through entry in mutation register and order of Revenue Officer after hearing the parties.(Sec. 35 &36)
- Detailed rules laying down the procedure have not been made.

Concept of Presumption of Truth

- An entry made in a record-of-rights **in accordance with the law** for the time being in force, or **periodical record in accordance with the provisions** of this Chapter and the rules thereunder, shall be presumed to be true **until the contrary is proved** or a new entry is lawfully substituted therefor. (Sec. 45)
- Presumption is rebuttable. Onus is on the person challenging it.
- This provision makes ROR a very important record
- This presumption there because ROR is prepared through a legal process laid down in law, after hearing affected parties.

Correction of ROR

- Powers of Revenue Officers to correct ROR are severely limited (Sec. 38)
 - Entries can be changed only in following cases:
 - A. Making entries in accordance with facts proved or admitted to have occurred
 - B. Making entries in respect of government land in accordance with the order made by the Government or by a Revenue Officer not below Collector
 - C. Making such entries as are agreed to by all the parties interested therein or are supported by a decree or order binding on those parties; and
 - D. Making new maps where it is necessary to make them.
 - No Provision to entertain a dispute on entry in ROR which is frequently done by Revenue Officers.
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Appeal, Review, Revision

- When original order is confirmed in appeal, no further appeal
- Order of Commissioner is final. No further appeal
- A Revenue Officer may review his or his predecessor's order
- No appeal against order refusing to review or confirming on review a previous order
- Commissioner or Collector may call for record of any case pending before, or disposed of by any Revenue Officer and may recommend modification or reversal to the F.C., who can pass any order he thinks fit.
- F.C. can call for record of any case and pass any order he thinks fit.
- No time limit for exercising power of revision

Review and Revision under CPC

Conditions for seeking Review under CPC (Sec. 114, Order XLVII)

- Discovery by the applicant of new and important matter or evidence which after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made.
- On account of some mistake or error apparent on the face of the record.
- For any other sufficient reason.

Review and Revision under CPC

Conditions for Revision by High Court under CPC (Sec. 115)

- Case has been decided by any Court in which no appeal lies.
- Subordinate court has exercised jurisdiction not vested in it
- Failed to exercise jurisdiction that is vested in it
- Have acted illegally or with material irregularity
- High Court cannot interfere on grounds that order is erroneous or not in accordance with law

Effects of Power of Review and Revision

- Revenue Officer decides only entry to be made in ROR not the civil right. Irrespective of his order, he can not dispossess any body of land
- Final adjudication on civil rights is done by civil court. Aggrieved party has option to seek remedy in civil court.
- Powers of review and revision in HPLRA are very wide, which prolong the litigation causing misery to rightful claimant of a right.
- Conditions for review and revision given in the CPC should be incorporated in the rules under Sec. 18 of HPLRA
- In West Bengal and Karnataka, only one appeal is allowed. No provision for review or revision.

Jurisdiction of Civil Courts

Provisions in HPLRA

- **Except as otherwise provided by this Act-**
 - A Civil Court shall not have jurisdiction in any matter in which State Government or a Revenue Officer is empowered by this Act, to dispose of or to take cognizance of the manner in which State Government or Revenue Officer exercises any powers vested in it. Sec. {171(1)}
 - A Civil Court shall not exercise jurisdiction over matters listed in Sec. {171(2)}
- If any person considers himself aggrieved as to any right of which he is in possession by an entry in a record of rights or in a periodical record, he may institute a suit for a declaration of his right under chapter VI of the Specific Relief Act, 1963 (Sec. 46)
- A person denying his liability for arrear of Land Revenue can pay the same under protest and, institute a suit in a Civil Court for the recovery of the amount so paid. (Sec. 84)

Writ Jurisdiction

- **Writ Jurisdiction of Supreme Court (Article 32)**

“The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of rights conferred by this Part.”

- **Writ Jurisdiction of High Court (Article 226)**

“High Court shall have powers, to issue to any person or authority, including any Government, directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibitions, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.”

Remedies Available in a Civil Court

Remedies by a Civil Court

- **Damages-** monetary compensation payable by the defaulting party to the aggrieved party for the loss suffered by him.
- **Temporary or Permanent Injunction-** defendant is prohibited from the assertion of a right, or from the commission of an act, which would be contrary to the rights of the person seeking the injunction.
- **Specific Performance-** In case of breach of a contract, the defaulting person must perform the contract according to its terms and stipulations.
- **Declaration-** In respect of a person's right to property or in respect of any other right, which once passed, becomes binding on the world at large.

Civil Court Vs Revenue Officer

- There is no conflict of powers of civil court and Revenue Officer
- Revenue Officer competent to decide what entry to be made in ROR. Civil Court will not interfere in this process.
- Civil Court is fully competent to decide title, give injunction or damages, which are beyond the powers of Revenue Officer
- Entry in ROR gives only presumption of truth. Before Civil Court such entry is a piece of evidence. It may decide right after assessing all the available evidence.
- Supreme Court and High Court can pass any order exercising their writ jurisdiction.

V

CONCLUSION

My Advice to Land Administrators

- Don't get enamored by old British Manuals, Settlement Reports, Gazetteers etc. Those are more relevant for historians than for modern Administrators.
- British had no experience of Land Revenue System and Codification of Laws because none existed in their country.
- All the laws, manuals, procedures have been created to recover maximum land revenue which has no significance now.
- All the provisions relating to assessment, assignment, remission, recovery of land revenue are almost irrelevant now. Don't waste your time and effort on these provisions.

My Advice to Land Administrators

- Presently, only purpose to maintain ROR is to keep a record of rights in land to reduce litigation and provide service to the people.
- Land belongs to the people, rights belong to them and record is for their benefit. You are the custodian only. You must learn to see Land Revenue Administration from the point of view of the people. If something does not benefit people, it is irrelevant.
- You are administering a law, so every action should be validated by law.
- Always see legal provision before taking any action related to ROR

THANKS
