

# The Delhi Land Revenue Act, 1954

February 9, 2013

## INTRODUCTION-

### HISTORY OF LEGISLATION

One of the external aids to construction is the history of the legislation. Regard must be had not only to the words used in the statute but also to the history of the legislation and reasons which led to its framing and promulgation; and to the mischief which had to be cured as well as the cure provided.

[Commissioner of Income Tax v. Shambulal Nathalal & Co., (1985) 23 Taxman 93 (Karn.) F.B.]

### BILL

A Bill is the draft of an Act of Parliament. It may be cited either by reference to the number and year thereof or by reference to the short title conferred thereon. Number and year of the Bill normally precede to its short title.. "Statement of Objects and Reasons" is always appended thereto.

[Jammuna Prasad v. Kishori Lal, AIR 1973 Cal. 204 (F.B.)]

Statement of Objects and Reasons for introducing a Bill can only be referred to for the limited purpose of ascertaining the circumstances which actuated the sponsor of the Bill to introduce it and the purpose for doing so.

[A.C. Sharma v. Delhi Administration, AIR 1973 S.C. 913 (F.B.)]

Statement of Objects and Reasons may and do furnish valuable and even historical material in ascertaining the reasons which induced the legislature to enact the statute but while interpreting the statute they must be ignored.

[Haribandu Das v. District Magistrate, Cuttack, AIR 1968 Ori. 148].

It can be looked into for ascertaining intention of the legislature.

[Rashid Khan v. Osman Khan, 1980 Mah. LJ 428.]

### ACT NO.12 OF 1954

The Bill received the assent of the President on 13th December, 1954 and soon thereafter became an Act of Parliament under the short title "THE

DELHI LAND REVENUE ACT, 1954."

### INTRODUCTORY NOTES

The purpose of the Delhi Land Revenue Act, 1954, is two-fold, namely (1) to consolidate and (2) to amend. Its subject matter concerns firstly, land revenue and secondly, jurisdiction of Revenue Officers within the State of Delhi. The corpus of law relating to the subject matter abovestated previous to this piece of legislation was contained in the following acts, viz.

(i) The PUNJAB LAND REVENUE ACT, 1887, and



(ii) The U.P. LAND REVENUE ACT, 1901.

After independence changes in the agrarian structure may be broadly bifurcated into two types. To the first type belong those changes in agrarian relations which occur in an indirect manner in response to the spontaneous operations of socio-economic progress. For example, the emergence of business tenancy's, or induced changes in agricultural technology and so on and so forth. The second type of changes are those which are brought about as a result of direct intervention in the agrarian structure. This direct intervention may assume the form of land legislation and its implementation by Governmental agencies. The Delhi Land Revenue Act represents a part in series of structural changes attempted by the Government of India within the realm of institutional framework.

## Preamble

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

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

IT IS hereby enacted as follows: –

## 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-sec. (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 [(Note: Subs. by A.O. (No.5) 1957 for the words "State of Delhi") 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;

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

(10) Words and expression agriculture year, Asami, Bhumidhar, cess, charitable purposes, 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

### 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 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 [(Note: Subs. by A.O. (No.5) 1957 for the words "State") Union territory].

## **7. Assistant Collector or Revenue Assistant –**

(1) The Chief Commissioner may appoint apply 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 [(Note: Subs. by A.O. (No.5) 1957 for the words "State") 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 person 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.

## **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.

### **COMMENTS**

The hierarchy of officials created by the DELHI LAND REVENUE ACT, 1954 may be represented by the following diagram.

The Chief Commissioner is the most powerful post and the head of Revenue Organisation, as well as Sections 4 of 15 of the Act make the position of the Cheif Commissioner vis-a-vis other officials in the Hierarchy in areas relating to power very explicit. The Chief Commissioner has the power to appoint as many as he thinks fit, Tahsildars, Naib-Tahsildars and Assistant Collectors. He may also has the capacity to alter and to form Patwaris' halkas and no alteration by the Patwari of the Halkas shall be final unless sanctioned by the Chief Commissioner. He has the power and the power to delegate the appointment of Patwaris and Kanungos, to Deputy Commissioner or a revenue assistant.



## **12. Power to form and alter Patwaris' halka-**

The "Deputy Commissioner" may, with the previous sanction of the Chief Commissioner, arrange the villages of the [(Note: Subs. by A.O. (No.5) 1957 for the words "State") Union territory] in Patwaris' halkas, any 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 public servant within the meaning of Section 21 of the Indian Penal Code, and all official records and documents kept by any such officer shall be held to be public records and the property to the Government.



## **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 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. Obligation 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 his fields..

(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 causes boundary remarks 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 willfully 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 of Gaon Sabhas of co-terminous 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 villagers 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.

## **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, causes 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 they 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 Bhumindhar 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 there under.

(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.

## 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.

## 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.

## **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.

## **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 of 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 and 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.

## **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 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.

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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.

### 33. Notification of record operations and its effect –

If the Chief Commissioner considers that, in the whole or part of the [(Note: Subs. by A.O. (No.5) 1957 for the word "State") Union territory], a 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 are 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 Commissioner as provided by Section 16 instead of the map and field-book previously maintained.

### **38. Preparation of new record-of-rights –**

Where any are 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 Section 27, 28 and 29.

### **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.



### **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 case 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.

### **42. Place of holding Court-**

(1) The Deputy Commissioner may hold his Court at any place within the [(Note: Subs. by A.O. (No.5) for the word "State") 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

(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 to 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 any from subordinates –

The Deputy Commissioner, a Revenue Assistant, a Tehsildar, a Record Officer or a Settlement Officer may make over any case or class or 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 or 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 summons persons to give evidence and produce documents –

Any revenue Court may summons 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 bound to attend, either in person or by an authorized 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 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 [(Note:



Subs. by A.O. (No.5) 1957 for the words "State"). 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, or 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 to 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 Orders XVI, Rules 2 to 4 of the Code of Civil Procedure, 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, as 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 moneys ordered to be paid under this Act shall be recoverable as if they were arrears 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 like, as may be lawfully exercised by the Civil Courts, in execution of their own decrees.

## 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 there under, which may possibly have produced error or defect in the decision of the case upon the merits.

## 67. Limitation for appeal –

(1) No appeal to the Settlement Officer, the Record Officers 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 and 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 decide 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, any 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 failed to exercise a jurisdiction so vested in him by law, or to have failed to exercise a jurisdiction so vested , or with substantial irregularity, and may pass such orders in the case as he thinks fit.

## 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 connect 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.

#### COMMENTS

The DELHI LAND REVENUE ACT, 1954 makes provisions for appeal against an order within Sections 64 to 70. An order is of two types (1) Judicial and (2) Non-judicial. An appeal is provided against a judicial order only. But who decides and by what rules an order may be distinguished from it being judicial or non-judicial the legislation is conspicuously silent.

Appeals are bifurcated into two stages, the first stage of appeal relates to a set of officials namely, (1) The Settlement Officer or Record Officer and (2) Deputy Commissioner or Additional Collector. The second stage of appeal is relative to the Chief Commissioner only. The meaning of this exposition is that first order or original orders are those made by (1) Assistant Settlement Officer or Assistant Record Officer, from this official the appeal lies to Settlement Officer or Record Officer. But if the first order or original order is from (1) Revenue Assistant (2) Assistant Collector or (3) Tahsildar, the appeal shall lie to Deputy Commissioner or to Additional Collector, This exhausts the first stage of appeal.

This second stage of appeal comprises the appeal of the Chief Commissioner from (1) Deputy Commissioner (2) Additional Collector (3) Settlement Officer or (4) Record Officer, as mentioned in Section 64(1) (c). The grounds for an appeal to Chief Commissioner are regulated by the provisions of Section 66. The grounds are:

- (1) That the decision is contrary to law or usage having the force of law.
- (2) The decision leaves some material issue of law or usage to be determined.
- (3) A substantial error or defect in the procedure as laid down in the Act which may possibly have produced error or defect in the decision of the case upon the merits.

The fate of an appeal may take two forms either it may be admitted or it may be "SUMMARILY REJECTED." If rejected the sequel is obvious but if it is admitted the following consequences may happen, namely,

- (1) The execution of the order of the Lower Court may be stayed (Section 70).
- (2) It may reverse, vary or conform the order appealed against (Section 69 (2) (a)).
- (3) Direct such further investigation to be made or such additional evidence to be taken, as it may think necessary (Section 69 (2) (b)).
- (4) Itself take such additional evidence (Section 69 (2) (c)).
- (5) Remand the case for disposal with such direction as it thinks fit (Section 69 (2) (d)).

The right of appeal is delimited by the period of Limitation. The period of limitation for the first stage of appeal is 30 days, as per Section 67(1) of the Act, and the limitation period for the second stage appeal is 60 days, as per Section 67 (2) of the Act. By Section 68 of the Delhi Land Revenue Act, 1954 Section 5 of the Limitation Act, 1908 stands barred.

The claim to appeal lies from every original order, except where the order is expressly made final by the provision of the Act per-se (Vide Section 65).





The Law in relation to reference is contained within Section 71 of the Act and in relation to revision in Section 72 and 73 of the Delhi Land Revenue Act, 1954.

## **75. Powers of officer promoted to a higher officer in the Union territory –**

Whenever any person holding an office in the service of the [(Note: Subs. by A.O. (No.5) 1957 for the word "State") Union territory], who has been invested with any powers under this Act, is promoted to a higher office of the same nature in the [(Note: Subs. by A.O. (No.5) 1957 for the word "State") 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 Commissioners –**

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 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 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.

## **82. Powers of Assistant Record Officers –**

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 there from, 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 realization 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, 1887 (10 of 1897), shall, apply, so far as may be, to this Act in the same manner as they apply to a Central Act.

