

Chapter 10

DEMARCATON OF BOUNDARIES

Powers of a Revenue officer under Section 107 of the H.P. land Revenue Act, 1954.

10.1 There are generally disputes over boundaries of fields among the tenure-holders. A Revenue officer has the power to define the limits of the boundaries under section 107 of the H.P. land Revenue Act, 1954. The Section is reproduced below:

“(1) A Revenue Officer may, for the purpose of framing any record or making any assessment under this Act or on the application of any person interested, define the limits of any estate, or of any holding, field or other portion of an estate, and may, for the purpose of indicating those limits, require survey marks to be erected or repaired.

(2) In defining the limits of any land under sub-section (1) the Revenue Officer may, cause survey-marks to be erected on any boundary already determined by, or by order of any court, Revenue Officer or Forest Settlement Officer, or restore any survey marks already set up by, or by order of any court of any such officer.”

Instructions issued by F.C. (Rev.) Himachal Pradesh

10.2 The Financial Commissioner (Rev) Himachal Pradesh has issued the following instructions for the guidance of Revenue Officers and Field Kanungos dealing with the encroachment cases or disputes as to boundaries.

With a view to ensure uniformity of practice and correctness, the Financial commissioner Himachal Pradesh is pleased to issue the following instructions for the guidance of Revenue Officers and Field Kanungos for the purpose of delimitation of the boundaries cases under the provisions of Section 107 of the said Act:-

I. If a boundary is in dispute, the Revenue Officer or the Field Kanungo should relay it from the Village-map prepared at the last settlement. If there is a map which has been made on triangulation system (Musalas bandi) he should find three fixed recognisable points on different sides of the place in dispute as near to it as he can, which are shown in the map. These points should be such as admitted by the parties that have remained undisturbed since the last settlement.

II. If the parties cannot agree on any such fixed recognizable points, then the Revenue Officer/Field Kanungo will find such points themselves with the help of the field map and chaining on the spot which they find undisturbed since the last settlement.

III. They, then will chain from one to another of these points and compare the result with the distance given by the scale applied to the map. If the distances when thus compared agree in all cases, he can then draw lines joining these three points in pencil on the map and draw perpendiculars with the scale from those lines to each of the points in which it is required to lay out on the ground. He will then lay them out with the cross staff as before and test the work by seeing whether the distance from one of his marks to another is the same as in the map. If there is only a small dispute as to the boundary between two fields, the greater part of which is undisturbed, then such perpendiculars as may be required to points on the boundaries of these fields as shown in the field map can be set out from their diagonals, as in the field book and in the map, and curves made as shown in the map.

IV (a) If three fixed points are not available and only two fixed recognizable points are available, a third point may be found out with the help of these two points so as to form a triangle. It should be seen that the sides of such a triangle when checked on the spot tally with the distances given between these points in the map. Then the land be demarcated by this procedure as laid down in instruction III above.

IV (b) the two adjoining fields may have a common inter-looking boundary line. If other dimensions (Karu Kan) of these fields tally on measurements the 2 points of this line can be treated as two points referred to in instruction IV above.

V. There can arise cases where even two fixed recognizable points are not available and only one point is admitted by the parties as fixed or found out by the Revenue Officer/Field Kanungo. Such points are generally the ones where corners of two or more fields meet. The reliability of such a point can be tested by measuring the sides of the fields adjoining or surrounding the point. If the measurements of such fields tally with the map then the accuracy of such a point itself gets established. Such a point may be fixed as a starting point for demarcation.

VI. The main purpose in following procedure in the foregoing instructions is to test the accuracy of the points on the map of the last settlement for which the relevant instructions are contained in Appendix-XXI of the Punjab Settlement Manual as applicable in Himachal Pradesh. The relevant extract is reproduced as below:-

“ A few fields too should be checked by their sides being measured. The correctness of a map is much more certainly determined by means of checking corners of fields and other fixed recognisable points than by merely seeing whether the cuttings of the diagonals are at the same distances as at settlement. While testing accuracy of existing map by lines (farzi watar), discrepancies upto 2 per cent may be neglected.”

VII. In demarcation of land comprising Khasra numbers that have undergone amendment due to changes due to causes such as by partitions, transfer of fractions of fields or new Khasra numbers that came into existence by acquisition of Land by nautor it should be ensured that the field maps (Patwari copy and Maumi copy) have been amended and updated in accordance with the provisions of Para 4.30 & 4.31 of H.P. Land Records Manual. The demarcation should be given on the basis of such amended maps.

VIII. If there is a map which has been made on the square system, the Revenue Officer or the Field Kanungo should reconstruct the square in which the disputed land lies. He should mark on the ground on the lines of the squares the places where the map shows that the disputed boundary intersected those lines, and then to find the position of points which do not fall on the lines of the squares, he should with his scale read on the map the position and distance of those points which do not fall on the lines of the squares, he should with his scale read on the map the position and distance of those points from line of a square and then with a chain and cross staff mark out the position and distance of those points. Thus he can set out all the points and boundaries which are shown in the map.

IX. In the report to be prepared/submitted by the Revenue officer/Field Kanungo, it must be explained in detail how he made his measurement. He should submit a copy of the relevant portion of the last settlement field map (Musavi) of the village showing the fields with their dimensions (Karu Kan) of which he took measurement as mentioned in instructions supra and the boundary in dispute. There should also be a mention in this report as to what method was adopted and the way he fixed the starting points and the fields he measured and the result of such measurement. All the fields and points measured should be shown in the site plans, within the frame of copy of musavi.

X. If a question is raised as to the position of the disputed boundary according to the field map of the settlement preceding the current settlement, that also should be demarcated on the ground so far as this may be possible and also shown in the copy of the current field map to be submitted under instruction No. IX.

XI. On the same site plan should be shown also the limits of the existing possession.

XII. The areas of the fields abutting on the boundary in dispute as recorded at the time of last settlement and those arrived at as a result of the measurement on the spot should be mentioned in the Revenue Officer's or the Field Kanungo's report with an explanation of the cause of increase or decrease if any discovered.

XIII. When taking his measurement the Revenue Officer or Field Kanungo should explain to the parties what he is doing and should enquire from them whether they wish anything further to be done to elucidate the matter in dispute. At the end he should record the statements of all the parties to the effect that they have seen and understood the measurements, they have no objection to make to this (or if they have any objection, he should record it together with his own opinion) and that they do not wish to have anything further done on the spot. It constantly happens that when the report comes before the Revenue Officer or the Civil Court, one or other parties impugnes the correctness of the measurement and asserts that one thing or another was left undone. This raises difficulties which the above procedure is designed to prevent.

XIV. (i) As provided under rule 37 of the Punjab Land Revenue Rules applicable to Himachal Pradesh, a Revenue Officer may issue a commission with the consent of all the contesting parties in cases instituted with him under section 107 of the Himachal Pradesh Land Revenue Act in urgent and exceptional cases, for reasons to be recorded in writing. The Revenue Officer may order such sum as he thinks reasonable for the expenses of the commission to be paid into court by the parties. When a Government servant is appointed as Commissioner, the provisions of S.R. 12 shall be adhered to.

(ii) The Local Commissioner shall follow the procedure prescribed in the preceding instructions during demarcation. On the receipt of report of local Commissioner, the Revenue Officer shall summon all the interested parties and record their statements. In case one of the parties objects to the demarcation and the report of local Commissioner, the Revenue Officer shall demarcate the land in dispute himself in the manner prescribed in the instructions supra.

These instructions will also be followed by the Revenue Officers/Field Kanungos whenever they are appointed as Commissioners by a Civil Court in suits involving disputed boundaries.

(Issued by H.P. Govt. vide Dy. Secretary (Rev.) letter No. Rev.-D (F)6-6/86 dated 4-10-1986 and 7-7-92).

Papers with Application of Demarcation

10.3 An interested person shall submit an application for demarcation in duplicate. The following documents shall be filed with the original application.

1. A copy of latest jamabandi.
2. A copy of previous settlement map.
3. A copy of map prepared during consolidation, if consolidation operations have been conducted in the estate.
4. A copy of tatima shajra if the demarcation of sub-divided khasra number is involved.
5. Process fee as prescribed under the rules.

N.B.—Only the application shall be filed in duplicate and other documents shall not be filed in duplicate.

Necessary Parties

10.4 The applicant shall implead all tenure holders as necessary parties whose boundaries of the adjoining fields touch the boundaries of Khasra Numbers which are required to be demarcated.

The application shall be verified by the applicant at the end as prescribed under the rules.

Procedure of Demarcation

10.5 The Revenue Officer may define the boundaries himself or he may forward the original application alongwith documents to the Field Kanungo for demarcation after entry in the Register. The duplicate application shall be retained in the office of the Revenue officer.

The Revenue officer or Field Kanungo shall demarcate the boundaries with great care and perfect accuracy strictly in accordance with the instructions of the Financial Commissioner, (Rev.) H.P. referred to above. Any negligence in giving wrong demarcation may lead to various types of criminal and civil litigation.

The boundaries shall always be relayed from permanent recognizable points from cultivated fields or constructed areas, the map of which was prepared at the time of last settlement/consolidation, as the case may be. The boundaries shall neither be relayed from the points from latimas prepared after previous settlement/consolidation like Nautor, Hissadari Kashi nor from uncultivated lands.

Report

10.6 The Revenue Officer or Field Kanungo shall prepare a detailed report showing how the demarcation was given and who were the parties present during demarcation. The statements of interested parties shall be recorded and their objections regarding demarcation shall also be noted. A tatima of encroachment found during demarcation shall be prepared showing the limits of existing possession.

Period within which Demarcation is to be given by Field Kanungo and Revenue Officer

10.7 The Field Kanungo shall give demarcation within a period of three months from the receipt of application from Tehsil office. In case the Field Kanungo fails to submit the file of demarcation immediately after 3 months, the Revenue Officer shall call for the original file from the Field Kanungo, on the basis of duplicate copy of application retained in his office, and shall carry out demarcation himself in accordance with the instructions of Financial Commissioner referred to above.

The Revenue Officer shall give demarcation within a period of 3 months from the receipt of original file from the Field Kanungo.

The Field Kanungo shall be liable for disciplinary action if the demarcation is not given by him within 3 months from the date of receipt of original application from the Revenue Officer.

Duties of Revenue officer

10.8 In case the demarcation is given by the Field Kanungo, the Revenue Officer shall call the parties before him and record statements of the concerned parties. He shall also see that the demarcation was done in accordance with the procedure prescribed by Financial Commissioner (Rev.). In case the parties have no objection regarding demarcation given by the Field kanungo, he will pass orders accordingly.

If the Revenue Officer finds that the demarcation has not been given in conformity with the Financial Commissioner's instructions or the parties are dissatisfied with the demarcation given by the Field Kanungo, the Revenue Officer shall proceed to the spot and demarcate the boundaries himself in accordance with the instructions of the Financial Commissioner referred to above.

Final Orders

10.9 Revenue Officer shall pass the final orders on demarcation application in the presence of the parties. As the order passed under Section 107 of Himachal Pradesh land Revenue Act by a Revenue Officer is appealable under Section 14 of the Act, the order should be perfect and based upon facts and reasonings.

It was held by HP High Court in Radha Shoami Satsang Beas through Shri Madan Gopal Singh V/s State of H.P. and others in civil writ petition No. 216 of 1984 (ILR Himachal Series 1984) decided on 30th May, 1984—D.B. (pages 317 to 327) that demarcation of boundaries is quasi statutory function.

Collector in his supervisory jurisdiction cannot set aside the demarcation given by the Assistant Collector-II grade. If after notice to the affected parties, the Collector is satisfied that the order requires modification or reversal, he is to report the case to the Financial Commissioner who alone is empowered to pass such order as he thinks fit under section 17 (4) of Himachal Pradesh Land Revenue Act.

Demarcation of Boundaries of Private lands with Government Lands

10.10 Revenue Officer not below the rank of AC Ist grade shall demarcate the boundaries of government lands with private lands. The Field Kanungo shall not in any case demarcate government lands with private lands. (H.P. Govt letter No. Rev 2-F (a)-1/88 dated 9-11-1989).

Punishment For Wrong Demarcation of Govt land

10.11 The Revenue Officer shall be wholly responsible to give correct demarcation of govt. lands with private lands. His attention is invited to Section 17 of the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983, in which he is liable for punishment for wrong demarcation of such lands. Section 17 runs as under

“Whoever, being an officer responsible for giving demarcation of boundaries of private and Government forests for the purpose of felling of trees in the private forests or for any other purpose intentionally or knowingly gives wrong demarcation so as to cause loss to the Government shall be punished with imprisonment of either description which shall not be less than one year but which may extend to three years and shall also be liable to fine;

Provided that the court may, for any special reason to be recorded in writing, impose a sentence of imprisonment of less than one year”.

Penalty for Destruction, Injury or Removal of Survey-marks

10.12 Under Section 120 of the HP. Land Revenue Act, 1954 if, any person willfully destroys or injures or without lawful authority removes a survey-mark lawfully erected, he may be punished by a Revenue Officer with fine not exceeding one hundred rupees for each mark so destroyed, injured or removed.

The imposition of a fine under Section 120 shall not bar a prosecution under Section 434 of the Indian Penal Code.

Section 120 ibid is applicable in the case of destruction etc. of survey marks lawfully erected while defining boundaries under section 107 of the Act.

Maintenance of Register of Demarcation

10.13 The Field Kanungo shall maintain a register of demarcation in the following form:

1	2	3	4	5	6	7	8
Sr. No.	Name of applicant	Details of respondents	Details of Kh. Nos. to be demarcated	Date of receipt of application from Tehsil office	Date of demarcation given by F.K	Date of return of application after demarcation to Tehsil office	Remarks

Submission of Return

10.14 The Field Kanungo shall submit a return of demarcation applications received and disposed of by him after every month regularly to Tehsil Office. The Tehsildar shall examine the return and see the progress of each application and ensure that the demarcation is given to the parties in time. The form of return shall be the same as prescribed for register of demarcation prescribed in para 10.13 above.