

**THE HIMACHAL PRADESH ABADI DEH (RECORD OF RIGHTS)  
ACT, 2021**

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**THE HIMACHAL PRADESH ABADI DEH (RECORD OF RIGHTS)  
ACT, 2021**

**(ACT NO. 2 OF 2022)<sup>1</sup>**

(Received the assent of the Governor on the 2<sup>nd</sup> February, 2022 and was published both in Hindi and English in the Rajpatra, Himachal Pradesh (e-Gazette), dated 10<sup>th</sup> February, 2022, pp. 7729-7751).

**An Act to provide for recording and resolving of proprietary rights of the abadi deh area in the revenue estates and for matters connected therewith or incidental thereto.**

**BE** it enacted by the Legislative Assembly of Himachal Pradesh in the Seventy-second Year of the Republic of India as follows:-

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1. Passed in Hindi and English by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (E-Gazette), dated 17<sup>th</sup> December, 2021, pp. 6154 and 6164.

## CHAPTER-I PRELIMINARY

**1. Short title, extent and commencement.**- (1) This Act may be called the Himachal Pradesh Abadi deh (Record of Rights) Act, 2021.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall come into force with immediate effect.

**2. Definitions.**- (1) In this Act, unless the context otherwise requires,-

- (a) “abadi deh” means the site recorded as such in the Record of Rights prepared and maintained under the Revenue Act, which is not assessed to land revenue;
- (b) “Appointed day” means the twentieth day of April, 2020;
- (c) “Assistant Recording and Resolution Officer” means a Revenue Officer not below the rank of Naib-Tehsildar under the Revenue Act, notified to perform functions under this Act;
- (d) “Assistant Survey Officer” means an officer appointed by the Government to act and perform functions under this Act;
- (e) “Chief Recording and Resolution Officer” means the Collector of the district under the Revenue Act, notified to perform functions under this Act;
- (f) “Commissioner” means the Commissioner of the division under the Revenue Act, notified to perform functions under this Act;
- (g) “Common area” means an area or building within the abadi deh used for any common need, convenience or benefit of the community and includes roads, paths, streets, public parks, drains, public toilets, ponds and tanks, wells, water courses, play grounds, bus stand or waiting places, places used for public sittings and gatherings or for any such other purposes used by the inhabitants, and any vacant site or plot not owned or possessed by any person; but does not include a building or area which houses an institution under the control of the Central or State Government;
- (h) “Financial Commissioner” means the Financial Commissioner (Revenue) Himachal Pradesh notified to perform the functions under this Act;
- (i) “Government” means the Government of Himachal Pradesh;
- (j) “notification or notified” means a notification published in the Rajpatra (e-Gazette), Himachal Pradesh;

- (k) “Panchayat” means a Panchayat constituted under the Himachal Pradesh Panchayati Raj Act, 1994; (4 of 1994).
- (l) “prescribed” means prescribed by rules made under this Act;
- (m) “proprietary right” means the right of ownership recorded in the name of a person, Panchayat, Urban Local Body, Central or State Government, juristic person or any other entity but does not include the rights of tenant, lessee, mortgagee or any other right which does not confer ownership;
- (n) “Recording and Resolution Officer” means a revenue officer not below the rank of Sub-Divisional Collector, notified to perform functions under this Act;
- (o) “Revenue Act” means the Himachal Pradesh Land Revenue Act, 1954; (6 of 1954).
- (p) “Revenue Officer” means a revenue officer exercising the powers under the Revenue Act;
- (q) “section” means section of this Act;
- (r) “Survey Officer” means an officer appointed by the Government to act and perform functions under this Act;
- (s) “survey unit” means the area within the abadi deh, to which a survey number is assigned under this Act;
- (t) ‘Urban Local Body’ means a Municipal Corporation, Municipal Council or a Nagar Panchayat, constituted under the Himachal Pradesh Municipal Corporation Act, 1994 (12 of 1994) and Himachal Pradesh Municipal Act, 1994 (13 of 1994) respectively; and
- (u) “Village Committee” means the committee nominated in the village or area under urban local body, as the case may be, by the Assistant Recording and Resolution Officer, with its composition as prescribed to identify the ownership of survey units and common areas set apart for common purposes with the abadi deh.

(2) Words and expressions used herein and not defined but defined in the Revenue Act have the meanings respectively assigned to them in that Act.

## CHAPTER-II

### OFFICERS AND POWERS

**3. Officers.-** (1) Subject to the provisions of this Act, there shall be the following officers notified to perform the functions and exercise powers under this Act, namely:-

- (a) Financial Commissioner;
- (b) Commissioner;

- (c) Chief Recording and Resolution Officer;
- (d) Recording and Resolution Officer;
- (e) Assistant Recording and Resolution Officer;
- (f) Survey Officer; and
- (g) Assistant Survey Officer.

(2) Subject to the provision of this Act, the officers mentioned in clauses (a), (b), (d) and (e) of sub-section (1) shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, (5 of 1908) in respect of the following matters, namely:-

- (a) the summoning and enforcing the attendance of any person and examining him;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavit;
- (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, (1 of 1872) requisitioning any public record or document or copy of such record or document from any office; and
- (e) issuing commissions for the examination of witnesses or documents.

**4. Superintendence and control of officers.-** (1) The superintendence and control over all officers in their administrative functioning under this Act shall vest in the Financial Commissioner, and all such officers shall be subordinate to him.

(2) Subject to the superintendence and control of the Financial Commissioner, the Commissioner shall control all other officers under this Act, in his division.

(3) Subject to the superintendence and control of the Financial Commissioner, the Chief Recording and Resolution Officer shall control all other officers under this Act, in his district.

(4) Subject to aforesaid and to the control of the Chief Recording and Resolution Officer, the Recording and Resolution Officer shall control all other officers under this Act, in his sub-division.

### CHAPTER-III

#### SURVEY, MAPPING AND IDENTIFICATION

**5. Identification of abadi deh area.-** The Government may, by notification, specify any abadi deh in a district, sub-division of a district, Urban Local Body or a village as an area for the purpose of identifying, recording and resolving the rights in each survey unit.

**6. Survey and mapping.-** (1) The Government shall appoint a Survey Officer and an Assistant Survey Officer to assist him, for each area notified under section 5 to conduct a survey in the manner as may be prescribed.

(2) The Government, upon notifying areas of which the standing record of rights within an abadi deh is to be prepared, shall itself or through a notified agency get a survey conducted and mapping done of such area to determine the boundary of the abadi deh, define the area and dimension of each survey unit, and assign a unique survey number to each such unit.

(3) The survey reports and maps prepared of the area shall be submitted to the Assistant Recording and Resolution Officer for the purpose of preparing the standing record of rights in the survey units.

#### **CHAPTER-IV**

#### **STANDING RECORD OF RIGHTS AND ITS MAKING**

**7. Standing record of rights.-** (1) There shall be a standing record of rights for each abadi deh area, which shall comprise the following namely:-

- (a) the record of proprietary rights of each survey unit prepared under this Chapter;
- (b) the survey reports and maps prepared under Chapter III with dimensions;
- (c) the record of proceedings of the meetings of the Village Committee;
- (d) such other document as may be prescribed or notified; and
- (e) genealogical tree (Shajra Nasab).

**8. Inquiry by the Assistant Recording and Resolution Officer.-** (1) The Assistant Recording and Resolution Officer, on his being designated as such, shall constitute a Village Committee for identifying the proprietary rights of the proprietors in the survey units.

(2) The Assistant Recording and Resolution Officer, in respect of the abadi deh of which the standing record of rights is to be prepared, shall inform the inhabitants of the area, in the manner prescribed, about the proposal to prepare such record for each of the survey unit.

**9. Preparation of standing record of rights.-** (1) The Assistant Recording and Resolution Officer, after deliberations and consultations with the Village Committee and hearing the parties interested, shall, in a summary manner, and as may be prescribed, record the proposed entries of proprietors and their proprietary rights and of the boundaries of the survey unit in the standing record of rights, as on the appointed day.

(2) The entry of proprietor and his proprietary rights shall be recorded by the Assistant Recording and Resolution Officer in the name of,-

- (a) the owner of the built up dwelling and residential areas including its open or enclosed court yards, other vacant land

and plots of owners not being a common area, shops and other establishment;

- (b) the Panchayat and the Urban Local Body for the common area, vacant land or plot not owned by any person; and
- (c) the Central, State Government, juristic person or other entity in respect of the land or institutions owned by it.

(3) In the conduct of exercise of powers under sub-sections (1) and (2) if a survey unit is found to be sub-divided, which escaped the attention of the Survey Officer, the Assistant Recording and Resolution Officer shall assign a unique number to each such survey unit.

(4) The rights acquired under this Act, shall not entitle the owner to acquire status of an agriculturist or a scheduled tribe for the purpose of section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (8 of 1974) or Himachal Pradesh Transfer of Land (Regulation) Act, 1968 (15 of 1969).

**10. Display of record.-** The survey map prepared under section 6 and the record of entries of proprietors in a survey unit prepared under section 9, shall be displayed at a conspicuous place in the village or within the area of the Urban Local Body and a copy thereof supplied to the Panchayat through the Ward Member of the village or the elected representative of the Urban Local Body or the Secretary in the absence such elected members of the Urban Local Body, as the case may be, in the manner, as may be prescribed.

**11. Raising of objections and decision.-** (1) A person aggrieved by the demarcation of any boundary in the survey record, or an entry regarding the proprietary rights in the standing record of rights in a survey unit, may, within thirty days from the date of display of record under section 10, file objections about the correctness thereof before the Assistant Recording and Resolution Officer.

(2) The Assistant Recording and Resolution Officer after hearing the parties and perusing the record, if any, shall make necessary correction of the boundaries in the survey map, and ascertain the persons best entitled to be recorded as the proprietor in the survey unit, and within sixty days of the expiry of the period under sub-section (1), pass an order in this regard by recording reasons.

*Explanation.-* The recording of the proprietary rights of a person in a survey unit shall not be conclusive proof of ownership and shall be subject to corrections and alterations in appeal or revision under this Act or also the rights so determined by a judgment and order of a court of competent jurisdiction.

(3) An entry recorded in the standing record of rights under section 9, if no objection is filed within the period provided under sub-section (1), shall be treated as final.

(4) The Assistant Recording and Resolution Officer shall thereafter in the manner prescribed, publish the record as finalized, which shall incorporate an order that may be passed under sub-section (2).

(5) The standing record of rights finalized by the Assistant Recording and Resolution Officer shall be amended or modified in the event of an order passed under sub-section (2) is set aside, modified or reversed in appeal, review or revision.

## CHAPTER-V

### APPEAL, REVIEW AND REVISION

**12. Appeal.**- (1) Any person aggrieved by an order passed by the Assistant Recording and Resolution Officer under section 11 may, within thirty days of the passing of such order, file an appeal before the Recording and Resolution Officer.

(2) The Recording and Resolution Officer after hearing the parties interested and likely to be affected either accept the appeal or dismiss the same by passing a reasoned order.

(3) Any person aggrieved by an order passed by the Recording and Resolution Officer under sub-section (2) may, within thirty days of the passing of such order, appeal to the Commissioner, who shall after hearing the parties interested and likely to be affected either accept the appeal or dismiss the same by passing a reasoned order.

(4) Appeals under sub-sections (2) and (3) shall be decided by the Recording and Resolution Officer and the Commissioner, as the case may be, within sixty days from the date the respondent puts in appearance after notice or is proceeded against *ex-parte* unless for reasons to be recorded in writing it is directed otherwise:

Provided that,-

- (a) when an original order is confirmed on first appeal, a further appeal shall not lie; and
- (b) when any such order is modified or reversed on appeal by the Recording and Resolution Officer, the order made by the Commissioner on further appeal, if any, to him shall be final.

(5) An appellate authority shall not remand a case except where it is established from the record that an adverse order has been passed against a necessary party who was not duly served.

**13. Review.**- (1) Where there is a mistake or error apparent on the face of record or where some new and important fact or evidence is discovered, the Assistant Recording and Resolution Officer, the Recording and Resolution Officer and the Commissioner, may within sixty days of the order sought to be reviewed either on their own motion or on the application of a party interested, after notice to the party likely to be affected and giving



reasonable hearing, review, and on so reviewing, modify, reverse or confirm any order passed by himself or his predecessor in office:

Provided that,-

- (a) when an Assistant Recording and Resolution Officer finds it necessary to review any order, he shall first obtain the sanction of the Recording and Resolution Officer;
- (b) when a Recording and Resolution Officer finds it necessary to review any order, he shall first obtain the sanction of the Chief Recording and Resolution Officer;
- (c) when any such order is modified or reversed on review by the Assistant Recording and Resolution Officer, or the Recording and Resolution Officer, an appeal shall lie against the order of the Assistant Recording and Resolution Officer to the Recording and Resolution Officer, and from the order of the Recording and Resolution Officer to the Commissioner, and the order on such appeal shall be final;
- (d) an order against which an appeal or revision has been preferred shall not be reviewed; and
- (e) an appeal shall not lie from an order refusing or granting permission to review or confirming on review a previous order.

(2) Save in the cases of clerical or arithmetical mistakes arising from any accidental slip or omission, no application for review shall lie under this section against an order passed by the Financial Commissioner under section 14.

**14. Revision by Financial Commissioner.-** The Financial Commissioner may, on an application of an aggrieved party, within sixty days of an order being passed, or on his own motion, call for and examine the records relating to any order passed or proceedings taken under this Act for the purpose of satisfying himself as to the legality or propriety of such order of proceedings and after hearing the affected parties, may pass such order in relation thereto as he may deem fit and modify, reverse or confirm any order passed under this Act.

## CHAPTER-VI

### TRANSFER OF RECORD

**15. Transfer of record to the District Collector.-** After preparation and finalization of the standing record of rights of the abadi deh area, it shall be attested by the Assistant Recording and Resolution Officer and transferred to the District Collector for maintaining and revising it under the Revenue Act.

**16. Application of Chapter IV of Revenue Act.-** The provisions of Chapter IV of the Revenue Act after transfer of the record under section 15 shall apply *mutatis mutandis* to such record.

**17. Application of Chapter VIII of Revenue Act.-** The provisions of Chapter VIII of the Revenue Act, rules framed thereunder and instructions issued from time shall apply *mutatis mutandis* for demarcation of a survey unit or part thereof after transfer of the record under section 15 of this Act.

## CHAPTER-VII

### PARTITION

**18. Partition of survey units.-** A partition of survey units comprised in abadi deh may be allowed by a Revenue Officer after the standing record of rights has been transferred, and only if the partition has been affirmed by all interested parties with a map showing the proposed partition signed by all persons having proprietary rights:

Provided that the Revenue Officer after examining such of the co-proprietors of the survey unit and other persons may, if he is of the opinion that the survey unit is impartible or the partition is impractical and there is good and sufficient cause why partition should be disallowed, refuse to partition the survey unit by recording the grounds of his refusal.

**19. Disputes as to partition.-** An application for the partition of a survey unit, in the event of a dispute, shall not lie before the Revenue Officer; and the party aggrieved may approach the civil court for partition.

## CHAPTER-VIII

### MISCELLANEOUS

**20. Summons.-** (1) A summon issued by an officer appointed under this Act shall be served personally, on the person to whom it is addressed, or failing him,-

- (a) his recognized agent; or
- (b) an adult member of his family usually residing with him.

(2) A summon may also be served by pasting a copy thereof at the usual or last known place of residence of the person to whom it is addressed.

(3) A summon may, if an officer appointed under this Act so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Chapter VI of the Indian Post Office Act, 1898, (6 of 1898) or sent through a reputed courier agency notified by the Government in this regard.

(4) When a summon is so forwarded in a letter, and it is proved that the letter was properly addressed and duly posted and registered, the officer appointed under this Act may presume that the summons was served at the time when receipt of its delivery is furnished:

Provided that if the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, in the first instance and if the officer appointed under this Act so directs, be served by delivery of a copy thereof to such of those persons as the officer appointed under this Act nominates in this behalf, and by publications of the contents thereof in a daily newspaper having wide circulation, for the information of the other persons interested.

(5) The summons may also be served through Short Message Service, email, or through other electronic modes at the phone number or email address otherwise known or made known, to the officer appointed under this Act:

Provided that if service is affected through any of the above modes, a printout of the delivery of summons shall be placed on the record.

(6) A notice, order of proclamation or copy of any such document, issued by an officer under this Act for service on any person shall be served in the manner provided in this section for the service of a summons.

(7) Any of the modes of service provided in sub-sections (2), (3), (5) or (6) may be adopted simultaneously in addition to the mode of service provided in sub-section (1).

**21. Presumption in favour of entries in the standing record of rights.-** Any entry made in a standing record of rights in accordance with the provisions of this Act shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefore.

**22. Suit for declaratory decree by persons aggrieved by an entry in a record.-** If any person considers himself aggrieved as to any right of which he is in possession by an entry in a standing record of rights, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1963 (47 of 1963).

**23. Correction of clerical errors.-** The clerical or arithmetical mistakes in any order passed by any officer under this Act may, at any time be corrected by the authority concerned either of its own motion or on the application of any of the parties and an intimation of such correction shall be made to the parties free of any charges and also to the concerned officer for its implementation.

**24. Protection of action taken in good faith.-** No suit, prosecution or other legal proceedings shall lie against any officer under this Act or any official acting under the directions of such officer, for anything which is in good faith done or intended to be done under the provisions of this Act or any rule made thereunder.

**25. Power to remove difficulties.-** (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Rajpatra (e-Gazette), Himachal Pradesh, make such provision, not inconsistent with the provisions of this Act, as appear

to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before the State Legislature.

**26. Exclusion of jurisdiction of civil courts.-** Except as otherwise provided in this Act, no civil court shall entertain any suit instituted or application made to obtain a decision or order in respect, of any matter which the Government or any officer is by this Act empowered to determine or dispose of.

**27. Powers of officers to enter upon land, dwelling and habitation areas, survey units for the purposes of survey and demarcation.-** The officers under this Act and any person acting under their orders may, in the discharge of any duty under this Act, enter upon and survey land in the manner prescribed, put and erect survey marks thereon and demarcate the boundaries thereof and do all other such acts necessary for the proper performance of that duty.

**28. Penalty for destruction, dismantling or removal of survey marks and demarcation.-** (1) If any person willfully destroy, dismantles or without lawful authority removes a survey or demarcation mark lawfully erected or put, he may be ordered by the Recording and Resolution Officer to pay such fine not exceeding Rupees two thousand for each mark so destroyed, dismantled or removed, and in the case of repetition of such an act, a fine not exceeding Rupees five thousand for each survey mark, as may, in the opinion of that officer, be necessary to defray the expenses of restoring the same and rewarding the person, if any, who gave information of the destruction, dismantling or removal.

(2) The amount of fine levied under sub-section (1), if not paid in the manner prescribed, shall be recoverable as arrears of land revenue under the Revenue Act.

(3) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code, 1860 (45 of 1860) or prosecution of the offender under any other law for the time being in force.

**29. Power to make rules.-** (1) The Government may, by notification, in the Rajpatra (e-Gazette), Himachal Pradesh, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act, shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than ten days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or

amendment shall be without prejudice to the validity of anything previously done under that rule.

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