

CHAPTER 7

CONSOLIDATION OF HOLDINGS

Introduction

7.1. The holdings in India are not economic. The size of holding is ludicrous. Not only this, the holdings are split up into plots scattered over the village. Accordingly the various States in India have enacted Acts in order to remove the ills of sub-division and fragmentation.

Necessity of Consolidation of Holdings

7.2 "The only measure that appears to promise relief from the evils that arise from fragmentation of right holder's holdings is consolidation. By this process, all the lands of one holder may be formed into one plot only or in a few plots" (Royal Commission on Agriculture).

Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971.

7.3 Like all other States, Himachal Pradesh has enacted the Himachal Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 (hereinafter called the Act) to provide for the consolidation of agricultural holdings and for preventing the fragmentation of agricultural holdings in the State and for the assignment or reservation of land for common purposes of the village.

Officers and authorities

7.4 The following officers have been appointed under the Act.

1. Director of Consolidation.
2. Additional Director of Consolidation.
3. Settlement Officers (Consolidation).
4. Consolidation Officers.
5. Assistant Consolidation Officers.

Duties and Power of Supervision and Superintendence

7.5 The Director is the Head of Department of Consolidation Department and exercises all powers of supervision and superintendence over the work of all subordinate officers.

Powers

7.6 (I) The Director exercises the powers under section 30(4) and 54 of the Act. Appeals against the orders of Settlement Officer are decided under section 30(4).

Revisional powers are exercised under section 54 against any order of subordinate officers or against any scheme or repartition under the Act.

(ii) Additional Director exercises powers under section 30(4) of the Act. Cases under section 54 are also heard and decided by him which are entrusted to him by the Director.

(iii) Settlement Officer exercises powers under Section 30(3) of the Act. He is also vested with the powers of Collector under the H.P. Land Revenue Act, 1954 to hear appeals under Section 14 of the Act.

(iv) Consolidation Officers and Assistant Consolidation Officers exercise powers and functions conferred and imposed upon them under the Act.

Declaration under section 14

7.7 Consolidation Operations in an Estate start with the declaration under section 14 of the Act, by the State Government. The State Government may declare that in the interest of the general public and for the purposes of better cultivation of land, it has decided to make a scheme of consolidation for any estate or a group of estates or a sub-division of an estate.

Effect of declaration

7.8 The estate or group of estates shall be deemed to be under consolidation operations from the date of publication till denotification. The duty of maintaining the maps, field book and preparing the annual record under the Himachal Pradesh Land Revenue Act, 1954 shall stand transferred to the Settlement Officer (Consolidation).

Cancellation of declaration

7.9 The State Government may at any time cancel the declaration made under Section 14 and such area shall cease to be under consolidation operations from the date of cancellation.

Revision and correction of records

7.10 If Consolidation Officer or Assistant Consolidation Officer is of the opinion that a revision of maps or records is necessary before preparing consolidation scheme, he shall recommend for revision to the State Government accordingly. The State Government shall publish a notification to this effect and thereupon revised Map, Field book and Record-of-rights shall be prepared under the Himachal Pradesh Land Revenue Act, 1954, and rules framed thereunder.

Field to Field Partial

7.11 When he is of the opinion that the map and record are in order and do not require revision, he shall proceed to carry out field to field partial under section 17(2) of the Act and shall correct the entries in the revenue record in accordance with the provisions of the Himachal Pradesh Land Revenue Act, 1954 and rules framed thereunder:

Correction of entries

7.12 Correction of disputed entries in record-of-rights can only be done under the provisions of the Himachal Pradesh Land Revenue Act: Disputed correction of Jamabandi entries can only be done on the basis of an obvious clerical error or a patent fact.

Correction by A.C.O./C.O.

7.13 As disputed entries of Jamabandi cannot be corrected by a Revenue Officer except as mentioned in para 7.12 above, hence, Assistant Consolidation Officer or Consolidation Officer cannot also correct entries of jamabandi, which are restricted.

Dispute regarding tenancy

7.13 (A) If a landlord claims that the person cultivating the land is not the tenant, the case will be decided by Land Reforms Officer as Assistant Collector, Ist Grade under Rule 29 of the H.P. Tenancy and Land Reforms Rules, 1975.

Publication of correct record

7.14 Records corrected or prepared under Section 17(2) of the Act shall be published in the estate under Section 18 and a copy shall be sent to Collector.

Preparation of Statement of plots and tenure holders

7.15 After publication of record or preparation of record, as the case may be, Assistant Consolidation Officer prepares—a statement of plots and tenure-holders as under:

- (a) a list of all plots comprised in the holdings of each tenure holder showing—

- (i) the area of each plot;
 - (ii) the soil classes of the plots according to the last settlement;
 - (iii) the hereditary rent rates sanctioned for the soil classes at the last settlement or revision operations, whichever is the latest;
 - (iv) the rental value of the plot;
 - (v) the revenue of the rent, as the case may be, of the plot calculated in the manner prescribed;
 - (vi) such other particulars as may be prescribed;
- (b) a list of each tenure holder, showing—
- (i) total area held by the tenure holder in all classes of tenures;
 - (ii) the revenue of the rent, as the case may be, for his share;
 - (iii) the rental value of the area held by the tenure holder; and
 - (iv) such other particulars as may be prescribed.

Objections of the statement

7.16 Within 30 days of the publication of statement, any person can file objection before Assistant Consolidation Officer disputing omission, correctness or nature of any entry in the statement. Assistant Consolidation Officer will inquire into the objections after hearing the parties and submit his report to the Consolidation Officer. The Consolidation Officer will dispose of the objections and his decision shall be final.

Question of title

7.17 Where the objection filed against the entries in the statement involves a question of title, the Consolidation Officer shall refer the question for determination to the Arbitrator, whose decision shall be final. Consolidation Officer cannot decide the question of title himself.

Consolidation Scheme

7.18 Thereafter, the Consolidation Officer after obtaining the advice of the tenure holders of the estate shall prepare a scheme for consolidation of holdings for the estate. In preparing the scheme, the Consolidation Officer shall have regard to the following principles:-

- (a) the land in each village may be divided and grouped under the following blocks, namely-
- (i) block of land producing rice only;
 - (ii) block of land producing mainly *Ek fasli* crops, other than rice;
 - (iii) block of land which is mainly *Do fasli*;
 - (iv) block of land subject to fluvial action of any river; and
 - (v) classification and valuation of land for the purpose of consolidation and the exchange ratio for conversion of one class into other;
- (b) every tenure holder is, as far as may be, allotted land in the block in which he holds the largest part of the holdings;

- (c) only those tenure-holders shall get land in any particular block who already hold land therein;
- (d) the number of chaks to be allotted to each tenure-holder excluding areas earmarked for abadi shall not exceed the number of block unless there is only one block and the land is more or less of a uniform quality.
- (e) the number of plots should not exceed the number of plots held by a landlord or tenant before the consolidation proceedings; and
- (f) such other principles as may be prescribed under the rules.

Scheme to provide for Compensation

7.19 Consolidation scheme shall provide for the payment of compensation to any person who is allotted a holding of a market rate less than that of his original and for the recovery of compensation from any person who is allotted a holding of a market value greater than that of his original holding.

Village Committee

7.20 Under rule 11 of the H.P. (Consolidation and Prevention of Fragmentation) Rules, 1973 (hereinafter called Rules). Consolidation Officer shall appoint a Village Committee consisting of not less than 5 and not more than 15 members from among the permanent residents of the estate who are above 21 years, preferably literate. Consolidation Officer will put up a consolidation scheme in consultation with Village Committee.

Particulars of the Scheme

7.21 Under Rule 12, the scheme shall contain the following particulars:-

- (i) a statement of classification of land for the purpose of consolidation and the exchange ratio for conversation of one class into another;
- (ii) a statement of valuation of lands, trees, etc. to be exchanged showing the compensation to be given to or received by the holder concerned;
- (iii) a brief statement as to the action, if any, taken in pursuance of sections 26 and 27 of the Act; and
- (iv) such other particulars as may be considered expedient by the Settlement Officer (Consolidation) in this behalf.

Draft Scheme to be explained

7.22 The draft scheme shall be read over and explained by the Consolidation Officer to the affected persons. A copy be supplied to Gram Panchayat on request, free of cost.

Power to make provision for partition in the Scheme

7.23 The consolidation scheme may provide for partition of joint lands between joint owners or joint occupancy tenants except lands in which question of title under Section 129 of the H.P. Land Revenue Act is involved. Partition shall be carried out in accordance with the share of each owner or occupancy tenant in land or tenancy as the case may be. Consolidation Officer shall allow partition only after hearing all the interested parties where no question of title is involved.

Question of title in a partition Case

7.24 Any question of title involved in a partition case, can only be decided by a competent Court and not by the Consolidation officer as provided under Section 25 of the Act.

Amalgamation of public, road, street etc.

7.25 If the Consolidation Officer feels necessity of amalgamation of public road, street, lane path channel, drain, tank, pasture or other land reserved for common purposes with any holdings, a provision is made in the scheme and he will make a declaration to this effect.

Land Reserved for common purposes 7.26 The Land may be assigned or reserved for common purposes such as extension of village abadi, road, path, well, etc. by the Consolidation Officer with the consent of the village right-holders.

Publication of draft Scheme of Consolidation 7.27 The draft scheme shall be published by Consolidation Officer. The Consolidation Officer shall then submit the scheme to the Settlement Officer after inviting and considering the objections.

Confirmation of the Scheme 7.28 The Settlement Officer (Consolidation) shall confirm the scheme submitted by the Consolidation Officer in the presence of right-holders with or without modification, as he deems proper.

Objection and Appeals 7.29 Any person aggrieved by the repartition may file a written objection to the Consolidation Officer within 30 days of publication. The Consolidation Officer shall pass an order after hearing the parties.

Any aggrieved person can file an appeal against the order of Consolidation Officer within one month to Settlement Officer (Consolidation) who shall pass an order after hearing the parties as he considers proper.

The person aggrieved by the order of Settlement Officer (Consolidation) may file an appeal to the Director, Consolidation of Holdings within 60 days who shall pass appropriate orders.

Power of State Govt. under Section 54 7.30 Under Section 54 of the Act, the State Government may at any time for the purpose of satisfying itself as to the legality or propriety of any order passed, scheme prepared or confirmed or re-partition made by any officer under the Act call for and examine the record of any case pending before or disposed of and may pass such orders as it thinks fit. Powers of State Government can only be exercised till the estate is not denotified.

The Director and Addl. Director Consolidation of Holdings have been vested with the powers of the State Government under Section 54 of the Act. So an aggrieved person has ample opportunity to redress his grievances at any time till an estate is denotified.

Repartition 7.31 The Consolidation Officer shall after consultation with the landowners and tenants of the estate or estates concerned, carry out repartition in accordance with the scheme of consolidation of holdings confirmed and the boundaries of the holdings as demarcated shall be shown on the 'shajra' which shall be published in the prescribed manner in the estate or estates concerned.

Repartition papers 7.32 The Consolidation Officer shall after obtaining the advice of the Committee, carry out repartition in accordance with the scheme of consolidation of holdings confirmed under Section 29 and shall prepare the following repartition papers:-

(i) a map of the village showing all the existing field numbers, recognised roads and irrigation channels and area assigned for public purposes, such as burial grounds, places for disposal of animal carcasses, ponds or grazing areas, etc. with new field numbers super imposed upon it in red lines or other markings.

(ii) another similar village map exhibiting the position emerging as a result of repartition;

(iii) a statement showing the names of the owners of holdings with particulars of field members, shares, class of land, tenure area, assessment and encumbrances, if any, after getting the record of rights up-to-date;

(iv) a statement showing the names of the owners of holdings with particulars of all different rights possessed by each individual;

(v) a statement showing the compensation payable by or to an owner in order to adjust difference in the value of land exchanged under section 38 of the Act or due to the existence of wells, trees, etc. under Sub-Section (4) of Section 26;

(vi) a statement showing the names of occupants or holders to whom the new consolidation holdings are allotted with particulars of field number, shares, class of land, tenure, area assessment and encumbrances if any;

(vii) such other papers as may be considered expedient by the Settlement Officer (CH) in this behalf. (Rule-15).

The repartition papers prepared during consolidation are explained by the Consolidation Officer to the persons effected by them.

New Record of Rights

7.33 Thereafter the Consolidation Officer causes to be prepared a new record-of-rights according to the provision of chapter IV of the H.P. Land Revenue Act, 1954 giving effect to repartition and the orders passed if any in appeals or revision. Such record-of-rights shall be deemed to have been prepared under Section 35 of the H.P. Land Revenue Act. Hence presumption of truth is attached to its entries.

Right of possession

7.34 After the confirmation of repartition, the new tenure holders are entitled to get possession of new holdings according to the procedure prescribed. The rights, title and interest in the original holding of a tenure holder will be extinguished and he will enjoy, the same rights, title and interest in the plots allotted to him. The encumbrances of tenure holders shall be transferred to the land allotted under the scheme.

Coming into force of such Scheme

7.35 As soon as the person entitled to possession of holdings under the Act have entered into possession of holdings respectively allotted to them, the scheme shall be deemed to have come into force.

Procedure for Eviction and entry into possession

7.36 Under Rule 18, the Consolidation Officer shall serve a notice on the person liable to eviction requiring with 15 days of notice to vacate the land. If the land is not vacated within 15 days, the Consolidation Officer shall issue warrant of possession exercising the powers of Revenue Officer under H.P. Land Revenue Act, 1954 for the purpose of putting in physical possession of the holdings the persons entitled thereto.

Redistribution of Assessment

7.37 After repartition has been confirmed and all appeals decided, the Collector of the district shall take necessary steps for re-distribution of assessment of estate in accordance with the provisions of Himachal Pradesh Land Revenue Act, 1954.

Transfer of property and suspension of partition proceedings during consolidation operations

7.38 During the pendency of consolidation proceedings, no land owner or occupancy tenant shall make any transfer except with the sanction of Consolidation Officer. Similarly no partition under the H.P. Land Revenue Act can take place during the pendency of the scheme and such proceedings pending shall remain in abeyance during the pendency of consolidation proceedings in an estate.

Power to vary or revoke scheme

7.39 Consolidation scheme may be varied or revoked at any time by the Settlement Officer (Consolidation) who confirms the scheme subject to any order of the State Government.

Power of Officers of Consolidation Operations

7.40 Under Section 50 of the Act, the Settlement Officer (CH) the Consolidation Officer and Assistant Consolidation Officer shall have powers and rights and privileges as are vested in a Civil Court in the following matters:-

- (i) The enforcing of attendance of witnesses and examining them, on oath affirmation and issue of commission etc.
- (ii) Compelling any one for the production of any document.
- (iii) The punishing of persons guilty of contempt etc.

Judicial Proceeding

7.41 A proceeding before Settlement Officer (CH), Consolidation Officer and Assistant Consolidation Officer shall be deemed to be judicial proceeding within the meaning of Sections 193, 228 and 196 IPC.

Provisions of CPC applicable

7.42 Under Section 50(5) of the Act, unless otherwise expressly provided by or under the Act, the provisions of Code of Civil Procedure, 1908 shall apply to proceedings including appeal and application under the Act.

No provision for review

7.43 No application for review, reference or revision shall lie from any order, passed under the provisions of the Act except as provided by or under the Act (Section 55).

Correction of clerical error

7.44 Under Section 56 of the Act, clerical or arithmetical mistakes in a scheme or an order passed by any officer arising out of accidental slip or omission may at any time be corrected by the concerned authority.

Jurisdiction of Civil Court barred

7.45 No person shall institute a suit or other proceeding in a Civil Court with respect to any matter out of consolidation proceedings or in regard to which a suit or application can be filed under the Act (Section 57).

Guide lines on Consolidation operations.

7.46 The following guide lines should be observed during consolidation operations:

1. Field to field partial of each khasra No. should be done by Field Kanungo and checked 100 percent by Assistant Consolidation Officer on the spot.
2. If any undisputed change in possession and rent is noticed, the same shall be recorded only after recording the statements of the interested parties on a file. The file shall be consigned to the general record room. No change shall be effected without following this procedure.
3. Disputed entries of jamabandis shall not be changed. Only errors based upon 'clerical errors' or 'patent facts' in the jamabandi can be corrected under the law.
4. Consolidation scheme shall be drawn strictly in accordance with the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 and rules framed there under.
5. Only 5 Blocks as prescribed under section 22 (2) of the Act shall be carved out for the purpose of consolidation.
6. Thorough checking of valuation, possession should be done by supervisory officers on the spot before proceeding under section 20 (1) is carried out so that minimum objections/appeals are preferred by the tenure holders.

7. Correct valuation should be done on the spot in the presence of tenure holders in consultation with the Village Committee.
8. 'Abadis' and built up areas should be fixed according to the possession and allotted to the occupiers only. No repartition of 'abadi' shall be done.
9. As the aim of consolidation Act is to increase agricultural production, hence, uncultivated lands like Ghasni, Ban, Ban Bans, Jangal etc. should not be consolidated except with the consent of the parties which is to be recorded in writing. Invariably, such lands should be allotted to the persons, who are in possession.
10. Objections/appeals should invariably be heard and disposed of in the estate itself.
11. Government lands shall not be distributed or consolidated.
12. To avoid errors, micro filming of mosavis shall be done for the purpose of consolidation instead of tracing them from the original mosavis.
13. Partition application shall be heard and disposed of by the Consolidation Officer in accordance with paras 14-19 to 14-21 of Chapter 14 of H.P. Land Record Manual. No partition application shall be heard and disposed of without giving an opportunity of being heard to all the interested persons.
14. No partition of land in which a question of title is involved can be done under section 25 of the Act, as has been held in *Hukam Chand and another Vs. The State of Haryana and others.* (Revenue Law Reporter pages 310-315)
15. Before ordering partition, it must be ascertained by summary inquiry whether any question of title is involved or not.
16. Every tatima including a tatima meant for valuation, shall be prepared on the spot by the patwari and checked by the Field Kanungo.
17. No 'min' number should be allotted to any tenure holder and no 'min' number shall be entered in record-of-rights prepared during consolidation operations.
18. Every encroachment on Govt. land shall be detected by patwari and Field Kanungo during consolidation operations. Encroachment file in respect of each encroacher shall be prepared and sent by A.C.O. after completion of proceedings under section 30 (1) of the Act to AC-1st grade (Tehsildar Mohal) for ejection under the law.
19. Demarcation of new holdings allotted to tenure holders shall be given by actual measurement on the spot by Field Kanungo before proceedings under section 30 (1) of the Act are carried out.

Advantages

- 7.47** (1) Consolidation of Holdings will increase the size of holding. Thus it will remove all the evils of sub-division and fragmentation.
- (2) It will increase the efficiency in agriculture by facilitating improvements of land through irrigation etc.
 - (3) It saves time and labour of the peasants.

- (4) Land can be reserved for common purposes.
- (5) Roads, etc. can be straightened.
- (6) As a result of consolidation, most of the boundary disputes disappear and thus the litigation is minimised.
- (7) Partition of joint holdings can be done without much difficulty during consolidation.
- (8) Any tenure-holder can get land for the extension of Abadi belonging to other tenure-holders.
- (9) Lands in any notified area cannot be transferred or partitioned so as to create a fragment.

Difficulties

7.48 (1) The scheme is most technical and untrained staff cannot conduct consolidation operations properly.

(2) There are certain areas where proper record-of-rights and 'Shajra' do not exist in good condition. In such areas the consolidation scheme cannot be enforced till the records and maps are revised first.

(3) Indian peasants are conservative and they have sentimental attachment in their ancestral lands. They do not want to part with their ancestral lands. Their rigid attitude results in dissatisfaction and leads to litigation. The scheme is most expensive.

(4) Some of the States, which lack finances can not cope with it and hence they stop the scheme any moment they are short of funds. Thus the problem of unemployment arises- as result of termination of the scheme.

(5) There are some people who advocate that the consolidation scheme is a mere waste. They are of the view that soon after the scheme, transfers take place as a result of sale, gift, partition, succession etc which lead to sub-division of the plots consolidated under the scheme. Hence further sub-division should be banned. It is essential to impose restrictions on further sub-division under the law. No transfer of land should be allowed without the permission of the Government after consolidation except by way of succession.

Conclusion

Despite difficulties, the scheme of consolidation is a major land reform measure which prevents fragmentation of agricultural holdings, increases agricultural production, reduces litigation and reserves lands for common purposes of the village. If the scheme is properly implemented, it is most useful for the village community in the long run.