

APPENDIX-VIII

Chapter IV of H.P. Land Revenue Act 1954.

Records

Records-of-rights and Periodical Records

**Record of rights
and documents
included therein**

32. (1) Save as otherwise provided by this Chapter, there shall be a record-of-rights for each estate.

(2) The record of rights for an estate shall include the following documents, namely :-

(a) Statements showing, so far as may be practicable:

- (i) the persons who are land-owners, tenants or assignees of land revenue [in the estate or who] receive any of the rents, profits in the estate, or who are entitled to the produce of the estate, or to occupy land therein;
- (ii) the nature and extent of the interests of those persons, and the conditions and liabilities attaching thereto; and
- (iii) the rent, land revenue, rates, cesses or other payments due from and to each of those persons and to the Government;

(b) a statement of customs respecting rights and liabilities in the estate;

(c) a map of the estate; and

(d) such other documents as the Financial Commissioner may, with the previous sanction of the State Government prescribe.

**Making of spe-
cial revision of
record-of-rights.**

33.(1) When it appears to the State Government that a record-of-rights for an estate does not exist, or that the existing record-of-rights for an estate requires special revision, it may by notification direct that record-of-rights be made or that the record-of-rights be specially revised, as the case may be.

(2) The notification may direct that record-of-rights shall be made or specially revised for all or any estates in any local area.

(3) A record-of-rights made or specially revised for an estate under this section shall be deemed to be the record-of-rights for the estate but shall not affect any presumption in favour of the State, which has already arisen from any previous record-of rights.

**Periodical
record.**

34. (1) The Collector shall cause to be prepared by the patwari of each estate yearly, or at such other intervals as the Financial Commissioner may prescribe, an edition of the record-of-rights amended in accordance with the provisions of this Chapter.

(2) This edition of the record-of-rights shall comprise the statements mentioned in sub-section (2) clause (a) of section 32 and such other documents, if any, as the Financial Commissioner may, with the previous sanction of the state Govt. prescribe

(3) For the purposes of the preparation of the periodical record, under this section the Collector shall cause to be kept up by the patwari of each estate a register of mutations and such other registers as the Financial Commissioner may prescribe.

Procedure for Making Records

Making of that part of the periodical record which relates to land-owners, etc assignees of revenue and occupancy tenants.

35. (1) Any person acquiring, by inheritance, purchase, mortgage, gift or otherwise, any right in an estate as a landowner etc. assignee of land revenue, or tenant having a right of occupancy, shall report his acquisition of the right to the patwari of the estate.

(2) If the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the patwari.

(3) The patwari shall enter in his register of mutations every report made to him under sub-section (1) or sub-section (2) and shall also make an entry therein respecting the acquisition of any such rights as aforesaid which he has reason to believe to have taken place, and of which a report should have been made to him under one or other of those sub-sections and has not been so made.

(4) No Revenue Court shall entertain a suit or application by the person so succeeding or other wise obtaining possession until such person has made the report required by this section.

(5) A Revenue Officer shall from time to time inquire into the correctness of all entries in the register of mutations and into all such acquisitions as aforesaid coming to his knowledge of which, under the foregoing sub-sections, report should have been made to the patwari and entry made in that register and shall in each case make such order as he thinks fit with respect to the entry in the periodical record of the right acquired.

(6) Such an entry shall be made by the insertion in that record of a description of the right acquired and by the omission from that record of any entry in any record previously prepared, which by reason of the acquisition has ceased to be correct.

Making of that part of the periodical record which relates to other persons.

36. The acquisition of any interest in land other than a right referred to in sub-section (1) of the last foregoing section shall—

(a) if it is undisputed, be recorded by the patwari in such manner as the Financial Commissioner may by rule in this behalf prescribe; and

(b) if it is disputed, be entered by the patwari in the register of mutations and dealt with in the manner prescribed in sub-sections (5) and (6) of the last foregoing section.

Determination of disputes.

37. (1) If during the making, revision or preparation of any record or in the course of any enquiry under this Chapter a dispute arises as to any matter of which an entry is to be made in a record or in register of mutations, a Revenue Officer may of his own motion or on the application of any party interested but subject to the provisions of the next following section, and after such inquiry as he thinks fit, determine the entry to be made as to that matter.

(2) If in any such dispute the Revenue Officer is unable to satisfy himself as to which of the parties there to is in possession of any property to which the dispute relates, he shall ascertain through the Gram Panchayat constituted under the Himachal Pradesh Panchayati Raj Act, 1968 or any other agency so prescribed by the Financial Commissioner or by summary inquiry who is the person best entitled to the property, and shall by order direct that that person be put in possession thereof, and that an entry in accordance with that order be made in the record or register.

(3) A direction of a Revenue Officer under sub-section (2) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

Restrictions on variations of entries in records.

38. Entries in records-of-rights or in periodical records, except entries made in periodical records by patwaris under clause (a) of section 36 with respect to undisputed acquisitions of interest referred to in that section, shall not be varied in subsequent records otherwise than by—

- (a) making entries in accordance with facts proved or admitted to have occurred;
- (b) making such entries as are agreed to by all the parties interested therein or are supported by a decree or order binding on those parties; and
- (c) making new maps where it is necessary to make them.

Mutation fees

39. (1) The State Government may fix a scale of fees for all or any classes of entries in any record or register under this Chapter and for copies of any such entries.

(2) A fee in respect of any entry shall be payable by the person in whose favour the entry is made.

Penalty for neglect to report acquisition of any right referred to in section 35.

40. Any person neglecting to make the report required by section 35 within three months from the date of his acquisition of a right referred to in that section shall be liable, at the discretion of the Collector to a fine not exceeding five times the amount of the fee which, would, have been payable according to the scale fixed under the last foregoing section if the acquisition of the right had been reported immediately after its accrual.

Obligation to furnish information necessary for the preparation of record.

41. Any person whose rights, interests or liabilities are required to be entered in any record under this Chapter shall be bound to furnish, on the requisition of any Revenue Officer or village officer, engaged in compiling the record, all information necessary for the correct compilation thereof.

Rights of the Government and Presumptions with respect thereto and to other matters

Right of the Government in mines and minerals.

42. All mines of metal and coal and all earth oil and gold washings shall be deemed to be the property of the Government for the purposes of the State and the State Government, shall have all powers necessary for the proper enjoyment of the Government's rights thereto.

Presumption as to ownership of forests, quarries and waste lands.

43. (1) When in any record of rights completed before the eighteenth day of November, 1871, it is not expressly provided that any forest, quarry, unclaimed, unoccupied, deserted or waste-land, spontaneous produce or other accessory interest in land belongs to the landowners, it shall be presumed to belong to the Government.

(2) When in any record-of-rights completed after that date it is not expressly provided that any forest or quarry or any such land or interest belongs to the Government, it shall be presumed to belong to the landowners.

(3) The presumption created by sub-section (1) may be rebutted by showing—

- (a) from the records or report made by the assessing officer at the time of assessment; or
- (b) if the record or report is silent, then from a comparison between the assessment of villages in which there existed, and the assessment of villages of similar character in which there did not exist, any forest or quarry or any such land or interest;

that the forest, quarry, land or interest was taken into account in the assessment of the land revenue.

(4) Until the presumption so rebutted, the forest, quarry, land or interest shall be held to belong to the Government.

Compensation for infringement of rights of third parties in exercise of right of the Government.

44. (1) Whenever, in the exercise of any right of the State referred to in either of the two last foregoing sections, the rights of any person are infringed by the occupation or disturbance of the surface of any land, the State Government shall pay, or cause to be paid to that person compensation for the infringement.

(2) The compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1894.

Presumption in favour of entries in records-of-rights and periodical records.

45. An entry made in a record-of-rights in accordance with the law for the time being in force, or a periodical record in accordance with the provisions of this Chapter and the rules thereunder, shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor:

Provided that notwithstanding anything contained in this section any entry made, in the areas comprised in Himachal Pradesh immediately before 1st November, 1966 during the period between the first day of April, 1948 and the first day of April, 1956 in record-of-rights or in a periodical record where by the land is shown as under self cultivation shall not be presumed to be true.

Suit for declaratory decree by persons aggrieved by an entry in a record.

46. If any person considers himself aggrieved as to any right of which he is in possession by an entry in a record of rights or in a periodical record, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1963.

Supplemental Provisions

Powers to make rules respecting records and other matters connected therewith.

47. The Financial Commissioner may make rules:

- (a) prescribing the language in which records and registers under this Chapter are to be made;
- (b) prescribing the form of those records and registers, and the manner in which they are to be prepared, signed and attested;
- (c) for the survey of land so far as may be necessary for the preparation and correction of those records and registers;
- (d) for the conduct of inquiries by Revenue Officers under this Chapter; and
- (e) generally for the guidance of Revenue Officers and village officers in matters pertaining to records and registers mentioned or referred to in this Chapter.

Record-of-rights and periodical records for groups of estates.

48. (1) The Financial Commissioner, may direct that a record of rights be made for any group of neighbouring estates instead of separately for each of the estates.

(2) The provisions of this Chapter with respect to record-of-rights and periodical record for an estate shall then, so far as they can be made applicable, apply to a record-of-rights and annual record for a group of estate.