

Government of Himachal Pradesh
Department of Revenue

No.Rev.B.A.(3)-1/2004-Vol-I. Dated:Shimla-2, 26th June, 2012.

NOTIFICATION

The Governor, Himachal Pradesh is pleased to substitute Chapter 14 of the Himachal Pradesh Land Records Manual, 1992 notified vide notification No.Rev. (LR) A (58)/89 dated 3rd December, 1992, as follows:-

“14.1. Entitlement to apply for partition.- (1) Any joint owner may apply for partition if-

- (a) his share is entered in the last record-of-rights; or
 - (b) his right to a share has been established by decree of Court; or
 - (c) his title has been admitted in writing by all persons interested in the admission or denial thereof.
- (2) Partition can be either private partition with mutual consent of the parties or any one or more parties may apply for partition under Chapter-IX of the H.P. Land Revenue Act, 1954.

14.2. Authorities competent to decide partition matters.- Assistant Collectors of either grade are competent to hear and decide applications of partition in their jurisdiction except when a question of title is required to be decided for which the Assistant Collector of the First Grade alone is competent.

During the settlement operation the partition cases will be heard and disposed of by the Settlement Tehsildar and Naib Tehsildar exercising powers of Assistant Collector of either grade except when a question of title is required to be decided by Assistant Collector of 1st Grade.

In case the revenue estate is de-notified from settlement under section 33 (9) of the HP Land Revenue Act prior to completion of the proceeding the case will be transferred to the successor in office i.e. Tehsildar/ Naib Tehsildar Mohal.

14.3. Private partition.- On written application duly signed by all the shareholders, the Patwari shall record a voluntary partition for orders in the mutation register. Alternately, all or any shareholders may jointly or otherwise present an application in the office of the Revenue Officer seeking attestation of mutation based on the details in the application. In either case, the Revenue Officer shall explain the details of partition sought by the applicants to all shareholders after ensuring they are all present in person or through power of attorney and having satisfied himself that their consent is freely given, he shall proceed to attest the mutation. In case all shareholders are not present or there are grounds to believe that the partition is unfair to some parties or objected to by one or more shareholders or their consent has been obtained by coercion or unfair means, he shall reject the same.

14.4 Documents to accompany Application for partition under chapter IX of the H.P. Land Revenue Act, 1954.- Following documents should be attached with the application for partition:-

1. An extract from the last detailed jamabandi, giving the complete entry for the holding or holdings of which partition is desired.
2. A note of any mutations attested after the filing of the last detailed jamabandi should be added.

14.5. Partition Procedure.- All parties interested shall be summoned by the competent Revenue Officer to appear on a date fixed for hearing of the partition application. If they are so numerous that personal service on each of them is not reasonably practicable, the procedure laid down in section 21 (3) and 23 of the Himachal Pradesh Land Revenue Act shall be followed. The summons and proclamations may be issued simultaneously. When the requirements of the law as regards the service of summons have been complied with, and the Revenue Officer is satisfied that all interested parties have had an opportunity of being present, he should proceed with the hearing on the date fixed putting on the file a note of the names of any parties who have not appeared.

14.6. Admission or disallowance of partition.- After examining the interested parties, the Revenue Officer may disallow the application, if he finds sufficient reasons to do so and record the same on the file. If the Revenue Officer has no reasons to disallow the application he shall ascertain whether a dispute exists regarding the partition between any of the interested parties. The disputes so arising may be of two kinds:-

- (i) A question as to title in the property of which partition is being sought.
- (ii) Other questions regarding the mode of making the partition.

14.7. Preliminary enquiry where question of title are raised.- If during the course of partition proceedings, an objection is raised by one of the parties that the question of title is involved, the Revenue Officer can not ignore such objection. He shall make preliminary enquiry and if he comes to the conclusion that such question of title is really involved, he should invoke the provisions of section 129 of H.P. Land Revenue Act, 1954; and proceed accordingly.

Mere raising of question of title does not make it incumbent upon the Revenue Officer to accept it as he has to ascertain and determine whether a question of title is involved or not. Detailed reasons for admitting or rejecting such a claim should be given in an order on this issue.

Examples of disputes as to question of title are-

- (a) The respondent/s denies the correctness of entry in the record-of-rights and there are sufficient reasons for considering such a plea.
- (b) The respondent/s admits the correctness of the entry in the record-of-rights, but raises a plea of adverse possession against the applicant.
- (c) The respondent claims an exclusive title on the land or part thereof on the basis of some document which, according to him, bears a legal sanctity.

14.8. When there are disputes as to title.- If the application is being heard by the Assistant Collector of IInd Grade and it appears to him that there is dispute as to question of title, which must be dealt with in the manner laid down in section 129, he should record clearly what the points in issue are, and send the case for the orders of the Assistant Collector of Ist Grade who is competent to decide it. The Assistant Collector of Ist Grade may either decide such question personally as per provisions of Section 129 or ask the parties to get it decided from a court of competent jurisdiction.

14.9. Preparation statement of share and possession.- In the partition proceeding where no question of title is involved or the question has been decided by the Assistant Collector First Grade or court of competent jurisdiction, the Revenue Officer shall, fix the case for the next hearing within the next one month and in the meantime, he shall cause the Field Kanungo, with the help of the Halqua Patwari, to get prepared statement/s of the current status on the ground (each khasra no. or part thereof) depicting the classification of land as per record (each khasra number or part thereof), shares of each party as per ownership, their actual possession, value of the land (each khasra number or part thereof). Any other details deemed important by the Kanungo can also be given in this statement/s. He shall forward the 'statement/s' alongwith his report thereon to the Revenue Officer before the next date of hearing.

14.10. Mode /manner of and order of Partition.- On receipt of statement/s, the Revenue Officer before whom the application has been filed shall have a copy of the statement/s given to each of the parties and hear objections if any in the matter. The Revenue Officer shall pass a speaking order on any objections received after such further inquiry as deemed appropriate by the Revenue Officer.

The Revenue Officer will then bring up issues that he is required to address in carrying out the partition and the mode in which he proposes to address them. Some examples of such issues are:

- (a) possession of land/values disproportionate to share
- (b) possession disproportionate with regard to more valuable land.
- (c) Value addition to land by some cosharer by development of the same
- (d) Compensating a cosharer who has developed land and added to its value. Such Compensation may be got evaluated from the technical expert in the concerned field, in case it appears necessary to do so.

Having listed the issues required to be addressed, the Revenue Officer shall proceed to outline the mode of partition i.e. manner in which he will address these issues. In drawing up the mode of partition the Revenue Officer shall take into account the following guidelines:-

- (i) Any conditions regarding partition in the village administration paper of the concerned revenue villages shall be specified;
- (ii) The land to be partitioned shall be pooled and thereafter valued keeping in view its distance from road, yield per unit per year in monetary terms on the basis of kinds of crops grown, value of trees standing on the land, any other potential usage of the land especially commercial use, etc.

- (iii) Taking into account above valuation and the factors like actual possession, efforts at development by specific shareholders, etc. the Revenue Officer shall make an equitable partition of the value of the land.
- (iv) In addressing these issues, the Revenue Officer will, if required, ask certain shareholders to monetarily compensate others.
- (v) how shamlat land is to be distributed shall be specified;
- (vi) any other factor which the revenue officer has considered necessary for purpose of carrying out the partition shall be mentioned.
- (vi) The Revenue Officer will ensure that a proper path/road/access is provided to all co-sharers for proper approach of individuals/cattle/ agricultural machinery and equipments including tractors mainly where cultivation is being done with tractors.

After informing the parties present of the mode/ manner in which he proposes the partition, the Revenue Officer will record and consider objections, if any, of the parties and decide the objections by a speaking order.

14.11 Draft Instrument of Partition:- Based on the principles enumerated in the mode of partition, as finalised after hearing objections, the Revenue Officer shall frame a draft instrument of partition and communicate the same to the parties and invite objections, if any, on this draft. In case, any party raises an objection on the share/land being allotted to him/her, the Revenue Officer will, decide the objection/s by a reasoned order. In case he is of the opinion that it is necessary to carry out a demarcation of the land in order to resolve the dispute he will direct a demarcation of the land on the spot and will decide the claim of the objector after receiving a report in the matter.

14.12. Final Instrument of Partition.- After passing orders on any matter arising out of para 14.11 and the expiry of time limit for filing of appeal, and no appeal being preferred, or after any appeal has been preferred and has been decided, a final instrument of partition shall be drawn upon stamp paper by the Revenue Officer. The date on which the partition is to take effect must be noted.”

By Order

Principal Secretary (Revenue),
Government of Himachal Pradesh.