

Explanatory Note of the Commission regarding recommendations of amendments to the Punjab Land Revenue Act, 1887 with specific reference to matters relating to Appeals, Review and Revisions as provided for in Chapter II, as also matters relating to Partition as contained in Chapter IX.

The issues referred to the Commission include the examination of the Punjab Land Revenue Act, 1887 ('Act' - for short) and suggest amendments thereof. The Commission by way of the present report is recommending for amendments to the Act in the provisions relating to 'Appeal, Review and Revision' and 'Mode of service of Summons' as provided for in Chapter II; and procedure for 'Partition' as contained in Chapter IX.

**Note:** The current recommendations regarding amendment in the provisions relating to Appeal, Review, and Revision are in supersession of the earlier recommendations made by the Commission on 28.06.2019 and 06.02.2020.

### **Appeal, Review and Revision**

The remedies of appeal and revision are closely interlinked, and have to be considered together. At present the Act provides for three levels of both appeal and revision – to the Collector, Commissioner and Financial Commissioner respectively. It has been felt that continued litigation at multiple levels inevitably leads to delay in final disposal of cases; and hence there is real need to review these provisions. It was brought to the Commission's notice that most of the revision petitions pending before the Financial Commissioner have already been heard in revision by the Commissioner. Since the current Act grants revisional jurisdiction to both the Financial Commissioner and the Commissioner, it would be difficult to stop this practice without amending the law. The Commission has considered the matter in this background, and feels that there should be only one level of appeal followed by revision. It was felt that the power of revision should remain with the Financial Commissioner (FC) since he is the administrative head of the Revenue Department and the ultimate remedy should lie at this level. Without this, his power to supervise the functioning of the Department may get eroded. It is, therefore, recommended to do away with the power of the Commissioner to hear revisions. Similarly, it is recommended that appeals would be finalised at the level of the Commissioner; and the only appeal that would lie to the Financial Commissioner is when an original order of the Collector has been set aside in appeal by the Commissioner.

In this background, apart from the above basic change, the following further amendments are proposed:

Appeal:

- (i) Sub-section number (1) has been recommended to be put in Section 13 of the Act since Sub-section (2) has been proposed to be added.
- (ii) In clause (c) of Section 13 of the Act, in order to curtail the number of appeals, it has been recommended that an appeal to the Financial Commissioner shall lie when the original order made by a Collector is reversed by the Commissioner in appeal.
- (iii) The Commission noticed and it has generally been the practice that the appellate authorities remand the cases on quite flimsy and untenable grounds. This results in the appellate authority not deciding the appeal on merits; besides, delay in the disposal of the case. Therefore, it has been recommended in Section 13 (1) (iii) of the Act that a case will be remanded only on the ground that a necessary party had not been duly served. This will do away with the practice of remanding matters in routine without adequate justification.
- (iv) An 'Explanation' has been recommended to be added below clause (iv) of Section 13 of the Act to clarify that some of the orders passed in partition proceedings i.e. the orders passed under Section 116 (1) or Section 117 (1) of the Act will not be treated as interim orders; the implication being that these can be appealed against. It is felt that in partition cases, there should be a provision for appeal against an order deciding whether a question of title is involved, or deciding the mode of partition. This is because these matters need to be finalised at the appropriate level before partition proceedings are continued further to a conclusion – otherwise there would be a danger of the partition having to be redone from the initial stages in case one of these orders is set aside in appeal or revision. In accordance with this line of argument, it has been recommended in Section 13 (1) (v) of the Act that in case an appeal has been filed, the partition proceedings will not be continued with. This restores the pre-2011 position as contained in Section 118 (2) of the Act as it then was, which provision was substituted by Punjab Act No.15 of 2011.

- (v) Sub-section (2) of Section 13 has been recommended to be added so that the pending appeals before the Financial Commissioner; before the commencement of the amendments are continued and disposed of according to the Act as it stood on the dates of filing the appeals. In this manner, the appeals already filed before Financial Commissioner before the amendments come into effect are to be decided notwithstanding the amendments to the Act. As such, the rights that a party may claim on the date of presentation of the appeal, would be protected.
- (vi) In order to expedite partition proceedings, it has been recommended by providing a 'proviso (i)' to Section 14 of the Act that an appeal in matters relating to partition should be filed within 15 days before the Collector, and 30 days before the Commissioner - reducing the existing period for filing of appeals by half.
- (vii) Besides, in terms of 'proviso (ii)' to Section 14 of the Act, it has been recommended that appeals before the appellate authority in partition cases are liable to be decided within sixty days after the respondent puts in appearance or is proceeded against *ex parte* unless for reasons to be recorded in writing the appellate authority directs otherwise. In case the appeal is not decided within such period it has been recommended for the appellate authority to record reasons.

Review:

A new provision Section 15-A is recommended to be added to the Act to allow for correction of clerical or arithmetical errors. It would, however, be necessary to intimate the parties about any correction that is carried out.

Revision:

- i. Section 16 of the Act provides for Revision. The purpose of revision primarily is for the revisional authority to examine the legality and propriety of an order or proceedings of the subordinate authority. In the existing Act there are no grounds mentioned to guide the exercise of revisional jurisdiction. It has, therefore, now been recommended to provide that the Financial Commissioner, may at any time, on his own motion; or an application made to him by an aggrieved person within ninety days of the passing of any order,

call for and examine the record of any case pending before, or disposed of by any Revenue-officer, subordinate to him for the purpose of satisfying himself about the legality or propriety of any order or proceedings. Also, it is recommended to make an explicit provision for filing of revision petition by any party which is aggrieved. This is in recognition of the existing practice.

- ii. The current provision relating to revision was inserted by Punjab Act No. 5 of 2013 provides that except a case pertaining to question of division of property or the mode of making a partition under section 118, the Financial Commissioner may, at any time, call for the record of any case pending before or disposed of by any Revenue Officer subordinate to him. Besides, a Commissioner or Collector can also exercise revisional jurisdiction in respect of cases pending before or disposed of by any Revenue Officer under his control. Therefore, a restriction was imposed in 2013 that revisions could not be entertained by the Financial Commissioner in cases relating to questions of division of property or the mode of making the partition. This led to the Punjab and Haryana High Court in the case of Manpreet Singh {2019 (3) RCR (Criminal) page 864} questioning the very power of the Financial Commissioner to exercise revisionary powers. This is now being recommended to be removed.
- iii. It has been recommended to provide that in partition cases, a revision can be filed only against the order completing the partition, and not against interim orders such as those finalising the mode of partition – such orders can only be appealed against. It is also being recommended in terms of proviso (iii) of Section 16 that revision petitions in respect of partition proceedings shall be filed within 60 days, and in terms of proviso (iv) thereof decided within 120 days from the time the respondent puts in his appearance after notice or is proceeded against *ex parte*.
- iv. Sub-section (4) of Section 16 has been recommended to provide that revisions already pending before the Commissioner would continue to be heard at that level.
- v. In terms of Sub- section (5) of Section 16 it has been recommended that revisions pending before the Financial Commissioner will be decided in

accordance with the amended provision. This is felt to be necessary in view of the order of the Punjab and Haryana High Court in Manpreet's Singh case mentioned above. Otherwise it may be taken, in view of the said judgment that the jurisdiction of the Financial Commissioner in respect of partition cases is barred.

**Mode of service of summons:**

- i. Section 20 (2) of the Act relating to, 'Mode of service of summons'. The word "posting" in the said Section, which is mentioned twice has been recommended to be replaced by the word "affixing" to provide greater clarity. Therefore, instead of, "the summons may be served by 'posting' a copy thereof at the usual or last known place of residence" it is to be read as; "the summons may be served by 'affixing' a copy thereof at the usual or last known place of residence". Further, instead of: "then by 'posting' a copy of the summons on some conspicuous place in or near the estate wherein the land is situate." it is to be read, "then by 'affixing' a copy of the summons on some conspicuous place in or near the estate wherein the land is situate." Besides, instead of the expression, "in which the Revenue-officer is employed", it has been recommended to be substituted with; "in which the Revenue-officer exercises his jurisdiction".
- ii. In Section 20 (3) of the Act it has been recommended to substitute the word, "proclamation" with the word, "publication". The Commission observed that 'proclamation' for the purpose of summons is rarely made and only paper work is carried out to mention that proclamation has been done. This is not done as it is not well taken by the person who is to be served. Besides, there are many cases in which it is alleged that the 'proclamation' has not been duly carried out. To obviate such disputes, and to make the procedure more contemporary, the option of proclamation is being removed. Therefore, it is recommended for making a provision for publication in a daily Punjabi newspaper having wide circulation.
- iii. An additional mode of service by modern methods through Short Message Service (SMS)/Whats app, email, or through electronic mode at the phone No. or email ID available or otherwise known, or made known, to the Revenue

Officer, has been recommended to be provided for in terms of Section 20 (4) of the Act. This is with the view to make use of the new technology, which is effective and can be quicker for effecting service. The filing of an affidavit has been recommended to be provided for, as sufficient proof regarding the genuineness of the phone number or email ID to which the communication is sent as being that of the recipient.

- iv. A provision has been recommended by way of Section 20 (5) of the Act to provide for service by registered letter or through a reputed courier agency notified by the government in this regard. This is an additional method of effecting service where service cannot be effectively made on the recipient.
- v. By way of Sub-section (6) of Section 20 it has been recommended for presumption of service on the recipient after a registered letter had been properly addressed and posted. Besides, in terms of the proviso the delivery of the registered letter may be presumed to be delivered after 30 days if it is not received back undelivered within the said period. This provision is in consonance with the provisions of the proviso to Order V, Rule 9, Sub-rule (5) of the Code of Civil Procedure, which provides for presumption of service on the expiry of thirty days of the registered letter being properly addressed and posted.
- vi. In terms of Sub-section (7) of Section 20 of the Act, it has been recommended to provide for serving of summons by way of publication in a daily Punjabi newspaper having wide circulation. In the existing Act there is no provision for publishing summons in the newspaper and such course of action has been held to be unlawful in some cases. It is now recommended to provide this option in an explicit manner.
- vii. Sub-section (8) of Section 20 of the Act has been recommended for serving of summons by uploading it on such website as may be notified.
- viii. By way of Sub-section (9) of Section 20 of the Act, it has been recommended for providing service of notice, order of proclamation or copy of any such document, issued by a Revenue-officer for service on any person in the manner provided in Section 20 of the Act for the service of summons.

- ix. It has been recommended in terms of Sub-section (10) of Section 20 of the Act that the modes of service provided in Sub-section (2), (3), (4), (5), (7) or (8) may be adopted simultaneously in addition to the mode provided in Sub-section (1). Thereby making the mode of serving summons in terms of Sub-section (1) of Section 20 of the Act to be mandatory and the other provisions of Sub-section (2), (3), (4), (5), (7) or (8) to be directory in nature.
- x. Section 21 of the Act provides for 'Mode of service of notice, order or proclamation, or copy thereof.' The word, 'proclamation' mentioned in the heading and body of this section has been recommended to be substituted with the word, 'publication'. This is for the reason that the word 'proclamation' has been recommended to be omitted from the provisions of the Act.
- xi. Section 22 of the Act, which provides for, 'Mode of making proclamation' has been recommended to be omitted. This is in view of the fact that Sub-Sections (2) and (7) of Section 20 have been recommended to be added and these cover the requirement of Section 22 as it now stands.

### **Partition**

The Commission has carefully and extensively examined the provisions relating to partition of lands. The recommendations that have been made are mainly to avoid delay that often occurs in the finalization of partition proceedings without interfering much with the procedure and requirements that are necessary for partition of lands. The steps taken for partition have also been partially rearranged for expeditious disposal of cases. The changes that have been recommended are as follows: -

- (i) The Commission has recommended for doing away with the rights of the tenants to seek partition by deleting it from the heading of Section 110 of the Act and also delating Sub Section (2) of Section 110; besides, by suitably amending Section 111 of the Act. This is primarily in view of the fact that the Commission has already submitted 'The Punjab Land Leasing and Tenancy Bill, 2019' in which the rights and liabilities of the lessor and lessee have been provided for. Besides, it has been provided that the lessee shall be entitled to cultivate the leased land during the period of the lease without interruption or interference from the lessor. It is also provided that in a case where there is a sale, mortgage, redemption of mortgage, succession, gift, or alienation

or transfer in any manner including partition amongst the co-owners of the land under lease, the lessee shall continue to be in possession of the leased land till the expiry of the lease and shall be deemed to be the lessee of the right holder in whose favour the interest in the land is transferred. Therefore, it is recommended that tenants should not have a right of partition of lands they are cultivating. This would go a long way in giving confidence to the landowners regarding safety of their land from being partitioned amongst the tenants and encourage them to lease their lands, as also get the same recorded in the revenue records.

- (ii) The existing Section 111 of the Act requires the applicant to submit a proposed plan of partition indicating the quality and location of the land in question along with the reasons for partition. This has been recommended to be omitted. The Commission felt that it is somewhat difficult for an applicant to submit the proposed plan of partition. In fact, the requirement all along has been on the Revenue-officer to conduct an enquiry as to the method of partition in terms of paragraph 18.10 of the Punjab Land Records Manual. It is for the Revenue-officer to obtain from the field staff, the statement of the area to be divided and the shares of the parties. This is to be obtained in terms of Form PTN-1. In normal practice it is quite difficult for an applicant seeking partition of his land to get the necessary documents from the field staff. Therefore, the Commission recommends for omitting the same from Section 111 of the Act. Besides, in terms of Sub-section (2) of Section 111 of the Act, it has been recommended to be provide for an applicant seeking partition of his land to submit as many copies of the application as the number of respondents. This has been done that each of the respondent or respondents in the partition proceedings are served with a copy of the application for partition so as to enable him to file a reply.
- (iii) Section 112 of the Act provides for 'Restriction and limitation on partition.' Clause (aa) has been proposed to be added in sub section (2) to provide that partition in respect of any common path, common water course or such like places used for common purposes can be refused. Earlier this provision was



in Section 115, but it is now recommended to consolidate all grounds on which partition may be refused in one Section.

- (iv) Sub-sections (3) and (4) of Section 112 have been recommended to be omitted. Sub-section (3) relates to severance of tenancy of a tenant having the right of occupancy. The same now is not much of consequence as 'occupancy tenants' who were to be given proprietary rights under the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1954 (Act 18 of 1954) have mostly been given their rights and their claims stand settled. Besides, under the Punjab Land Leasing and Tenancy Bill, 2019 submitted by the Commission its repeal has been recommended. Sub-section (4) of Section 112 of the Act provides; "the fact that the landlord objects to the partition of a tenancy may be sufficient reason for the absolute disallowance of the partition thereof." has been recommended for being omitted as the same also relates to tenants, which has been recommended to be done away with.
- (v) Section 113: The pre-2011 position, which required that any co-sharer among the respondents who seeks a separate portion shall be added as an applicant is recommended to be restored.
- (vi) It has been recommended, in Section 113 (2) of the Act that the reply to the application for partition shall be filed within thirty days. This has been done to expedite the proceedings for partition and that un-necessary adjournments are not taken by the respondents who seek partition of their joint land.
- (vii) It has been recommended to explicitly provide by way of Sub-section (3) of Section 113 of the Act that a party which had been proceeded against *ex parte* may join the proceedings at the stage at which the matter is pending when he joins. This is to obviate the possibility of some respondent deliberately allowing himself to be proceeded against *ex parte* and then seek to have the matter reverted to the original stage, only in an attempt to delay the partition. Even otherwise this is in consonance with the Supreme Court judgments in the case of Sangram Singh v. Election Tribunal, Kotah AIR 1955 SC page 425 and Modula India v. Kamakshya Singh Deo AIR 1989 SC page 162. However, an aggrieved person would have the remedy of appeal and the matter can be remanded in appropriate cases under Section 13 (1) of the Act.

- (viii) Section 114: The original Section 115 is recommended to be renumbered 114 (deleted earlier) to provide that partition may be refused for any good and sufficient cause, by recording reasons. Under the existing provisions, partition could be disallowed only if the application is made for partition of common path, common water course etc.
- (ix) Section 115: A detailed procedure for settling disputes through mediation and conciliation has been recommended. This is in accord with the modern trends of settling disputes through mediation and conciliation rather than going in for prolonged and lengthy litigation. A provision for 'Settlement of disputes outside the Court' is also provided for in terms of Section 89 of the Code of Civil Procedure, which was inserted by Act No.46 of 1999 (w.e.f. 01.07.2002).
- (x) Section 116: The existing Section 116 of the Act enjoins upon the Revenue Officer to distinguish between, (a) question as to title in the property of which partition is sought, and (b) questions as to the property to be divided, or the mode of making the partition. This has often caused confusion in the minds of the Revenue Officers, and both these questions are proposed to be dealt with separately. The recommended Section 116 provides that question of title must be decided first. It is also recommended that if a question of title is actually involved, the parties shall be referred to the Civil Court for determination of this question. The existing provision that a Revenue Officer may himself decide the question of title as though he were a Civil Court is proposed to be done away with. In actual practise and experience of the Members of this Commission, it has been noticed that this provision has never been utilized or is very seldom observed and seems quite redundant.
- (xi) Section 117: It is recommended that a decision about the property to be divided should be included in the 'mode of partition' which is covered under this Section, making it one comprehensive order. The factors to be kept in view while framing the 'mode of partition' have also been enumerated. The passing of one comprehensive order would eliminate two appeals being filed; one against the mode of partition and the other specifying the property to be divided.

- (xii) Section 118: It has been made clear in this Section that the Revenue Officer shall allot specific portion of the partitioned land to the various applicants. It is also clarified that in case the partition proceedings have reached finality, by virtue of an order passed under Section 118, they cannot be brought to a halt by any applicant withdrawing therefrom. This is to overcome a situation where an applicant who is not satisfied with the partition may nullify the entire proceedings by withdrawing from the case.
- (xiii) Section 121: Under the existing Act there is no time limit for the issuance of an instrument of partition. It is recommended to specify that the instrument shall be issued at the expiry of 90 days upon the orders passed under Section 118. This is to reduce the possibility that the instrument may be issued immediately after the finalization of the partition without the parties getting adequate opportunity to challenge the partition. Besides, a provision has been recommended to be made in terms of Sub-section (2) of Section 121 for amending or modifying the 'instrument of partition' in the event of an order passed under Section 118 of the Act being set aside, modified or reversed. This is for the purpose that the issuance of instrument of partition is not delayed in the event of an appeal or revisions being pending against an order under Section 118 or Section 121, as the case may be. By way of 'Explanation' to Section 121 it has been provided that: "A partition shall be taken to be complete on an order passed under section 118 of this Act." This is with a view to clarify that partition is complete under Section 118 of the Act and only an 'instrument of partition' of the already concluded proceedings is to be drawn up. However, a provision for revision against an 'instrument of partition' has been provided for as at times it is only when the order is to be implemented by change of possession that a party takes the stand or alleges that it had no knowledge of the proceedings earlier. In order to provide a safe guard, it has been provided by way of an 'Explanation' to proviso (ii) of Section 16 (3) of the Act that: "If a revision petition has been filed against an order under section 118 passed in appeal, no such petition shall lie against an instrument of partition issued under section 121 of this Act."

(xiv) After the words; "Section 121", the number "(1)" is recommended to be put.

This has been recommended to be put as Sub-section (2) has been proposed to be added.

The Commission deliberated extensively on the matter of compulsory partition of lands comprised in the joint or *mushtarka khatas*. Suggestions were received that this be made compulsory. Concerns were expressed that joint holding of lands creates friction amongst the co-owners and results in litigation. The Commission after deliberations and considerations is of the view that the same, at this stage, would be quite impractical. To compel landowners having joint or *mushtarka khatas* to partition their lands may be imposing unnecessary and uncalled for litigation. Even otherwise, it was felt that the Government may not have the necessary set-up to carry out this task. There may be shortage of staff in the field compared to the volume of work that would be required to be undertaken in case partition of lands is made compulsory. Besides, the pending partition proceeding cases would get further delayed. It would rather be of more importance to dispose of pending partition cases so that there is no delay in them rather than burden the Revenue-officers with more partition work. The partition of joint or *mushtarka khatas* of lands though is of great importance and the concerns that have been expressed are not without reason as these indeed do create friction amongst the co-owners of the lands.

The Commission, therefore, for the present recommends that the Government may consider taking help of the Legal Services Authority in the State for this purpose. It is, in fact the duty of the said Authority to resort to mediation and conciliation for settling disputes between the parties without the need of their going to the Court. The Legal Services Authority through its paralegal workers can impress upon the joint holders or co-sharers of land to get the land mutually partitioned and incorporate it with their help in the revenue records in accordance with the provisions of Section 123 of the Act. The joint co-sharers in the village can be educated in this regard. It has been seen that most of the co-owners are willing to partition the joint land but are reluctant to go through the procedure. In this regard it needs to be emphasised to the Revenue-officers take up cases of mutual or private partition of land on priority basis and submit a monthly statement of how many partitions have been effected by them in their revenue circle. This may be monitored at the Secretariat level by holding monthly meetings and reviews. The provision for providing mandatory partition of the land of co-sharers may be impractical at this stage.

However, at some stage it needs to be there and it can be initiated by making it compulsory at the time when a person gets a right in the land, which could be by way of inheritance, succession or purchase of land. This would be a step-by-step approach and it can be examined as to how successful this has been.

It also needs to be mentioned that in view of the recommendations being made, the provisions of the Punjab Land Records Manual would require changes and amendments wherever necessary.

Section 153 of the Act has been recommended to substitute the governing of limitation by the Limitation Act, 1963 instead of the Limitation Act, 1908, which has been repealed.

The Chairman and Members of the Revenue Commission take pleasure in submitting the recommendations proposed to be made to the Punjab Land Revenue Act, 1887 for the worthy consideration by the State Government to enact comprehensive provisions as have been recommended so as to ensure a healthy and prosperous agricultural progress in the State, besides, sustained increase in the income of the farmers.

Chandigarh  
Dated: 03.08.2020.

Member Secretary,  
Revenue Commission, Punjab.

## CHAPTER II

### Appeal, Review and Revision.

13. Appeals: - <sup>1</sup>[(1)] Save as otherwise provided by this Act, an appeal shall lie from an original or appellate order of a Revenue-officer as follows, namely: -

- (a) to the Collector when the order is made by an Assistant Collector of either grade;
- (b) to the Commissioner when the order is made by a Collector;
- (c) to the Financial Commissioner when the <sup>2</sup>[original] order <sup>3</sup>[made by a Collector is reversed by the Commissioner in appeal.]

Provided that-

(i) when an original order is confirmed on <sup>4</sup>[ ] appeal, a further appeal shall not lie;

(ii) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on further appeal, if any, to him shall be final;

<sup>5</sup>[(iii) no order of remand shall be passed by the appellate authority except where it is established from the record that a necessary party was not duly served];

(iv) no appeal shall lie against any interim order passed by a Revenue-officer under this Act;

<sup>6</sup>[Explanation: An order passed under sub-section (1) of section 116 or section 117 of this Act shall not be an interim order.]

<sup>7</sup>[(v) in partition proceedings the Revenue-officer shall not proceed further in case an appeal has been filed against an order passed under sub-section (1) of section 116 or section 117 or section 118 of this Act.]

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<sup>1</sup> After the numbering of Section 13, the sub-section number "(1)" is recommended to be added.

<sup>2</sup> The word, "original" is recommended to be inserted.

<sup>3</sup> The words; "made by a Collector is reversed by the Commissioner in appeal." are recommended to be substituted for the words; "the order is made by a Commissioner."

<sup>4</sup> The word; "first" is recommended to be deleted.

<sup>5</sup> Recommended to be substituted for; "no authority, except the first appellate authority, shall remand the case to the lower authority to decide the case afresh;"

<sup>6</sup> The "Explanation" after proviso (iv) is recommended to be added.

<sup>7</sup> Proviso (v) is recommended to be added.

<sup>8</sup>[ ]

<sup>9</sup>[(2) Notwithstanding anything contained in this section, the appeals pending before the Financial Commissioner under sub-section (1) prior to the commencement of the Punjab Land Revenue (Amendment) Act, 2020, shall be decided and disposed of as heretofore.]

14. Limitation for Appeals: - Save as otherwise provided by this Act, the period of limitation for an appeal under the last foregoing section shall run from the date of the order appealed against, and shall be as follows that is to say—

- (a) when the appeal lies to the Collector—thirty days;
- (b) when the appeal lies to the Commissioner—sixty days;
- (c) when the appeal lies to the Financial Commissioner - ninety days;

<sup>10</sup>[Provided that:

- (i) the period of limitation for an appeal against the order passed by the Assistant Collector under sub-section (1) of section 116 or section 117 of this Act shall be fifteen days before the Collector and thirty days before the Commissioner; and
- (ii) such appeal shall be decided by the appellate authority 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 the appellate authority directs otherwise.

15. Review by Revenue-officers. - (1) A Revenue - officer may, either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm, any order passed by himself or by any of his predecessors in office:

Provided as follows: -

- (a) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue-officer of a class below that of Collector proposes to review any order whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject;

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<sup>8</sup> The note which provides that; "Note--The provisions of items (iii) and (iv) shall not be applicable to the authorities mentioned under section 16 of this Act." is recommended to be omitted.

<sup>9</sup> Sub-sections (2) is recommended to be added.

<sup>10</sup> The Proviso to section 14 is recommended to be added.

(b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period;

(c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;

(d) an order against which an appeal has been preferred shall not be reviewed.

(2) For the purposes of this section, the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as Revenue-officer, and to whom there is no successor in office.

(3) An appeal shall not lie from an order refusing to review or confirming on review a previous order.

<sup>11</sup>[15-A. Correction of order. - Clerical or arithmetical error in an order may at any time be corrected by the Revenue-officer who passed the order or by his successor either of his own motion or on the application of any party, and an intimation of such correction shall be made to the parties free of any charges and also to the concerned Revenue-officer for its implementation.]

16. <sup>12</sup>[Revision] – <sup>13</sup>[(1) The Financial Commissioner, may at any time, on his own motion, or on an application made to him by any aggrieved person within ninety

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<sup>11</sup> Section 15 A is recommended to be added.

<sup>12</sup> The heading of section 16 at present reads as; "Power to call for, examine and revise proceedings of Revenue officers- ". This is recommended to be substituted with the word; "Revision-".

<sup>13</sup> Section 16 is recommended to be substituted. At present Section 16 reads as under: -

"16 Power to call for examine (sic.) (examination) and revise proceedings of Revenue Officers. (1) Except a case pertaining (sic.) (pertaining) to question of division of property or the mode of making a partition under section 118, -

- (i) The Financial Commissioner may, it (sic.) (at) any time, call for the record of any case pending before or disposed of by any Revenue Officer subordinate to him; and
- (ii) A Commissioner or Collector may call for the record of any case pending before or disposed of by any officer under his control.

(2) If (sic.) (In) any case in which a Collector has called for a record and he is of the opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with him (sic.) (his) opinion thereon for the orders of the Commissioner whose decision shall be final.

(3) The Financial Commissioner or Commissioner may, in any case called for by himself under sub-section (1) or under sub-section (2), as the case may be, pass such orders as he thinks fit:

Provided that he shall not under this section pass an order reversing or modifying any proceeding or order of a subordinate Revenue Officer and affecting any question of right between private persons without giving those persons an opportunity of being heard.

(4) Notwithstanding anything contained in this section, the cases called for by the Commissioner or Collector, as the case may be, under subsection (1) and (2) as it existed prior to the commencement of the Punjab Land Revenue (Amendment) Act, 2012, shall be decided by them as heretofore."



days of the passing of any order, call and examine the record of any case pending before, or disposed of by any Revenue-officer, subordinate to him for the purpose of satisfying himself as to the legality or propriety of such order or proceedings and may pass such order in relation thereto as he may deem fit.

(2) No revision shall lie against an order in respect of which an appeal is maintainable.

(3) A person aggrieved by any order of which revision has been sought, shall state the illegality and impropriety of the order impugned.

Provided that: -

(i) the Financial Commissioner shall not pass an order reversing or modifying any proceedings or order of a subordinate Revenue-officer and affecting any question of rights between the parties, without giving them an opportunity of being heard;

(ii) except against an order under section 118 passed in appeal, or against issuance of instrument of partition under section 121 of this Act, no application for revision shall lie against an order relating to partition proceedings under Chapter IX of this Act;

Explanation: If a revision petition has been filed against an order under section 118 passed in appeal, no such petition shall lie against an instrument of partition issued under section 121 of this Act;

(iii) the period of limitation for filing a revision petition against an order under section 118 passed in appeal, or against issuance of instrument of partition under section 121 of this Act with respect to partition of land shall be sixty days from the date of order; and

(iv) such revision shall be decided within one hundred and twenty days from the date the respondent puts in an appearance after notice or is proceeded against *ex parte*.

(4) Notwithstanding anything contained in this section, the cases called for by the Commissioner under sub-section (1) prior to the commencement of the Punjab Land Revenue (Amendment) Act, 2020 (Act No.\_\_\_\_\_of 2020), shall be decided and disposed of by the Revenue-officer as heretofore.

(5) Notwithstanding anything contained in the Punjab Land Revenue (Amendment) Act, 2011 (Punjab Act No. 15 of 2011) and the Punjab Land Revenue (Amendment)

Act, 2012, (Punjab Act No. 5 of 2013), the revision applications pending before the Financial Commissioner shall be disposed of by him in accordance with the provisions contained herein.]

Chapter II

Procedure.

20. Mode of service of summons: -

(1) A summons issued by a Revenue-officer shall, if practicable, be served (a) personally on the person to whom it is addressed, or, failing him (b) his recognized agent or (c) an adult member of his family usually residing with him.

(2) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by <sup>14</sup>[affixing] a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or if that person does not reside in the district in which the Revenue-officer <sup>15</sup>[exercises his jurisdiction] and the case to which the summons relates has reference to land in that district, then by <sup>16</sup>[affixing] a copy of the summons at some conspicuous place in or near the estate wherein the land is situate.

(3) 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, if the Revenue-officer so directs, be served by delivery of a copy thereof to such of those persons as the Revenue-officer nominates in this behalf and by <sup>17</sup>[publication] of the contents thereof <sup>18</sup>[ in a daily Punjabi newspaper having wide circulation] for the information of the other persons interested.

<sup>19</sup>[(4) The summons may also be served through Short Message Service (SMS)/Whats app, email, or through other electronic mode at the phone number or email id available or otherwise known, or made known, to the Revenue-officer.

Provided that if service is effected through any of the above modes, a printout of the communication shall be placed on the record and the applicant or the appellant, as the case may be, shall provide proof to the satisfaction of the Revenue-officer of the genuineness of the phone number or email id being that of the recipient.

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<sup>14</sup> The word, 'affixing' is recommended to be substituted for the word, 'posting'.

<sup>15</sup> The words, 'exercises his jurisdiction' are recommended to be substituted for the words, 'is employed'.

<sup>16</sup> The word, 'affixing' is recommended to be substituted for the word, 'posting'.

<sup>17</sup> The word, 'publication' is recommended to be substituted in place of the word, 'proclamation'.

<sup>18</sup> Recommended to be added.

<sup>19</sup> Sub- section (4) is recommended to be substituted. Sub- section (4) at present reads as follows: -

"A summons may, if the Revenue-officer 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 Part III of the Indian Post Office Act, 1866 (XIV of 1866)."

Explanation: An affidavit filed by the applicant shall be sufficient proof regarding the genuineness of the phone number or email id to which the communication is sent as being that of the recipient.]

<sup>20</sup>[(5) A summons may, if the Revenue-officer 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 (Act VI of 1898), or sent through a reputed courier agency notified by the Government in this regard.]

<sup>21</sup>[(6) When a summons is so forwarded in a letter, and it is proved that the letter was properly addressed and duly posted and registered, the Revenue-officer may presume that the summons was served at the time when receipt of its delivery is furnished.

Provided that in case of a letter sent through registered post, its delivery may be presumed after thirty days if it is not received back undelivered within this period.]

<sup>22</sup>[(7) A summons may also be served on the person named therein by publication of the contents thereof in a daily Punjabi newspaper having wide circulation.

(8) A summons may also be served by uploading it on such website as may be notified.

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<sup>20</sup> Sub-section (5) is recommended to be substituted. At present sub- section (5) reads as under: -

"When a summons is so forwarded in a letter, and it is proved that the letter was properly addressed and duly posted and registered, the Revenue-officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post."

<sup>21</sup> Sub-section (6) is recommended to be substituted. At present sub-section (6) is as was added by Punjab Act No.15 of 2011. The same at present is as follows: -

"If it is not possible to serve summons in accordance with any of the modes, as provided in sub-sections (1), (2), (3), (4) and (5), then, -

- (a) summons may be sent by the Revenue Officer by whom it is issued whether within or out of the State by post or by courier service, as approved by the High Court of Punjab and Haryana or by fax message or by Electronic Mail Service or by any other means, as may be provided in the rules made by the High Court;
- (b) where the person is confined in prison, the summons may be delivered by post or may be sent by courier service as approved by the High Court or by fax message or by Electronic Mail Service or by any other means, as may be provided in the rules made by the High Court to the officer-in charge of the prison for service to the person;
- (c) where the person resides out of India and has no agent in India, empowered to accept service, the summons may be addressed to the person at the place, where he is residing or may be sent to him by post or by courier service, as approved by the High Court or by fax message or by Electronic Mail Service or by any other means; as may be provided in the rules made by the High Court, if there is postal communication between such place and the place, where the Court is situated; and
- (d) whereas the Central Government, by notification in the Official Gazette, has declared in respect of any foreign country that summons should be served on the persons actually and voluntarily residing or carrying business or personally working for gain in that foreign country through an officer of the Government of foreign country, as specified by the Central Government, the summons may be sent to such officer, through the Ministry of Government of India dealing with foreign affairs or in such other manner, as may be specified by the Central Government, and if such officer returns any such summons with an endorsement purporting to have been made by him that the summons have been served on the persons, such service shall be deemed as evidence of service.

<sup>22</sup> Sub-sections (7), (8), (9) and (10) are recommended to be added.

(9) Any of the modes of service provided in Sub Sections (2), (3), (4), (5), (7) or (8) may be adopted simultaneously in addition to the mode provided in Sub Section (1) of this Section.]

21. Mode of service of notice, order or <sup>23</sup>[publication], or copy thereof. - A notice, order of <sup>24</sup>[publication] or copy of any such document issued by a Revenue-officer for service on any person shall be served in the manner provided in the last foregoing section for the service of summons.

22. <sup>25</sup>[ ]

## CHAPTER IX.

### PARTITION.

110. Effect of partitions of estates [ ]<sup>26</sup> on joint liability for revenue [ ]<sup>27</sup>. -

<sup>28</sup>[ ] A partition of land, either under this Chapter or otherwise, shall not, without the express consent of the Financial Commissioner, affect the joint liability of the land or of the land-owners thereof for the revenue payable in respect of the land, or operate to create a new estate, and, if any conditions are attached to that consent, those conditions shall be binding on the parties to the partition.

[ ]<sup>29</sup>

111. Application for partition. - (1)<sup>30</sup> Any joint owner of land, [ ]<sup>31</sup> may apply to a Revenue-officer for partition of his share in the land [ ]<sup>32</sup>, if

(a) on the date of application, the share [as owner]<sup>33</sup> is recorded under Chapter IV [of this Act]<sup>34</sup> as belonging to him; or

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<sup>23</sup> The word "proclamation" is recommended to be substituted with the word; "publication" .

<sup>24</sup> The word "proclamation" is recommended to be substituted with the word; "publication" .

<sup>25</sup> Section 22 is being recommended to be omitted as Sub-Sections (2) and (7) of Section 20 have been recommended to be added and these cover the requirements of Section 22. Section 22 reads as under: -

Mode of making proclamation. - When a proclamation relating to any land is issued by a Revenue-officer, it shall in addition to any other mode of publication which may be prescribed in any provision of this Act, be made by beat of drums or other customary method, and by posting a copy thereof on a conspicuous place in or near the land to which it relates.

<sup>26</sup> The words, "and tenancies" are recommended to be deleted.

<sup>27</sup> The words, "and rent" are recommended to be deleted.

<sup>28</sup> The Sub-section number "(1)" is recommended to be deleted.

<sup>29</sup> Sub section (2) at present reads: "A partition of a tenancy shall not without the express consent of the landlord, affect the joint liability to the co-sharers therein for the payment of the rent thereof." This is recommended to be omitted.

<sup>30</sup> Section 111, as it is, is recommended with modifications, to be numbered as sub-section (1), and sub-section (2) is recommended to be added.

<sup>31</sup> The words; "or any joint tenant of a tenancy in which a right of occupancy subsists," are recommended to be omitted.

<sup>32</sup> The words; "or tenancy, as the case may be, with the proposed plan of partition indicating the quality and location of the land in question along with the reason for partition and copy of the latest jamabandi" are recommended to be omitted.

<sup>33</sup> The words; "as owner" are recommended to be inserted.

<sup>34</sup> The words; "of this Act" are recommended to be inserted.

(b) his right to the share [as owner]<sup>35</sup> has been established by a decree which is still subsisting at that date.

[ ]<sup>36</sup>

<sup>37</sup>[(2) The applicant shall with his application for partition, file as many copies of the application as the number of respondents.]

112. Restriction and limitations on partition - Notwithstanding anything in the last foregoing section-

(1) places of worship and burial grounds held in common before partition shall continue to be so held after partition, unless the parties otherwise agree among themselves and record their agreement and file it with the Revenue - officer;

(2) partition of any of the following properties, namely:

(a) any embankment, watercourse, well or tank, and any land on which the supply of water to any such work may depend;

<sup>38</sup>[(aa) any common path, common water course or such like place, used for common purposes.]

(b) any grazing ground; and

(c) any land which is occupied as the site of a town or village and is assessed to land revenue;

may be refused if, in the opinion of the Revenue-officer, the partition of such property is likely to cause inconvenience to the co-sharers, or other persons directly or indirectly interested therein, or to diminish the utility thereof to those persons;

[ ]<sup>39</sup>

[ ]<sup>40</sup>

113. Notice of the application [and addition of parties]<sup>41</sup> for partition. – <sup>42</sup>[(1)] The Revenue-officer, on receiving the application under section 111, shall, if it is in order and not open to objection on the face of it, fix a day for the hearing thereof, and –

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<sup>35</sup> The words; "as owner" are recommended to be inserted.

<sup>36</sup> Clause (c) at present reads as; "a written acknowledgment of that right has been executed by all persons interested in the admission or denial thereof." This is recommended to be omitted.

<sup>37</sup> Sub Section (2) is recommended to be added.

<sup>38</sup> Clause (aa) is recommended to be inserted.

<sup>39</sup> Sub- section (3), at present reads as follows; "the fact that the partition on the application of a joint owner of land would render necessary the severance into two or more parts of the land comprised in the tenancy of a tenant having the right of occupancy may, unless the tenant assents to the severance, be a sufficient reason for the disallowance of the partition in so far as it would affect the tenancy; and". This is recommended to be omitted.

<sup>40</sup> Sub-section (4), at present reads as follows; "the fact that the landlord objects to the partition of a tenancy may be sufficient reason for the absolute disallowance of the partition thereof." This is recommended to be omitted.

<sup>41</sup> The words, "and addition of parties" are recommended to be added.

<sup>42</sup> After Section 113, the serial no. "(1)" is recommended to be put as a sub-section number.

(a) cause a notice of the application on the day so fixed to be served [on the respondent and]<sup>43</sup> on such of the recorded co-sharers, as have not joined in the application to submit their replies <sup>44</sup>[specifying therein if any of them desires partition of his share and if he so desires add him as an applicant]; and

(b) if he thinks fit, cause [a]<sup>45</sup> notice to be served on any other person whom he may deem to be directly or indirectly interested in the application [ ]<sup>46</sup>.

<sup>47</sup>[(2) The reply to the application for partition shall be filed by the respondent within thirty days of his appearance in response to the notice issued under clauses (a) or (b) of Sub-section (1) of this Section.

(3) A party that has been proceeded against *ex parte* may join the proceedings of the case from the stage at which it is pending on the date he joins]

<sup>48</sup>[114. Absolute disallowance of partition. - <sup>49</sup>[The Revenue-officer] after examining such of the co-sharers and other persons, as may be present on that day, <sup>50</sup>[ ] may, if he is of the opinion that there is good and sufficient cause, why partition should be absolutely disallowed, refuse the application, recording the grounds of his refusal.]

<sup>51</sup>[115. Partition through Conciliation and Mediation: - (1) Before proceeding to adjudicate the partition amongst the parties, the Assistant Collector shall make an

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<sup>43</sup> The words, "on the respondent and" are recommended to be added.

<sup>44</sup> The words, "and plans of partition with cogent reasons, and if the shares for which partition of applied for is a share in a tenancy, on the landlord also", are recommended to be omitted and substituted for "specifying therein if any of them desires partition of his share and if he so desires add him as an applicant";

<sup>45</sup> The word "a" is recommended to be substituted for the word, "the".

<sup>46</sup> The words; "to submit their replies and plans for partition with cogent reasons." are recommended to be omitted.

<sup>47</sup> Sub-sections (2) and (3) are recommended to be added.

<sup>48</sup> Section 114 was omitted by Punjab Act No. 15 of 2011. The said section 114 before its omission by said Punjab Act No. 15 of 2011, read as follows: -

"Addition of parties to application. - On the day fixed for hearing, or on any day to which the hearing may be adjourned, the Revenue-officer, shall ascertain whether any of the co-sharers desire the partition of their shares also, and, if any of them so desire, he shall add them as applicants for partition."

The same is now recommended to be substituted by providing for; "Absolute disallowance of partition." This at present is provided for in terms of Section 115. Thus, Section 115 is now recommended for being renumbered as Section 114; besides, old Section 115 i.e. before its substitution by Punjab Act 15 of 2011 has been recommended to be restored with some modifications and numbered as Section 114.

<sup>49</sup> The words, "The Revenue-officer" are recommended to be added here.

<sup>50</sup> The words, "The Revenue-officer" are recommended to be omitted from here.

<sup>51</sup> Section 115 has been recommended to be renumbered and substituted, from earlier Section 115-A. Section 115-A at present reads as follows: -

"115-A. Settlement of disputes by conciliation. - (1) Where it appears to the Revenue Officer that a settlement would be acceptable to both the parties to the partition, he shall formulate the terms of settlement and submit the same to the parties for their suggestions. After receiving the objections or suggestions, the Revenue Officer, shall re-formulate the terms of settlement, possible in the prevailing situation, and leave the same for conciliation with the intervention of the elders where the property is situated; and if the settlement is agreed upon by both the parties through a written deed, the Revenue Officer shall pass an order in accordance with such deed. The orders so made by the Revenue Officer shall be final, and partition deed shall be issued accordingly.

(2) If no settlement is reached at under sub-section (1), the Revenue Officer shall within a period of four months after the date of making reference for conciliation, but not later than six months from the date of initiation of conciliatory proceedings, pass such order on merits, as he may deem appropriate in the circumstances of the case after hearing the parties."

effort in the first instance, to settle it by mediation and conciliation and for this purpose he may either refer the case to the Mediation and Conciliation Centre in the District or to a panel of three respectable persons out of whom one each shall be nominated by the applicants and the respondents respectively and the third shall be nominated by the Assistant Collector.

Provided that where parties agree for mediation then proceedings in pursuance thereof shall be concluded by the mediators within thirty days of entering the reference and such period may with the mutual consent of the parties be extended by another fifteen days.

(2) In case the parties do not agree for mediation or in the event of failure to resolve the matter by mediation and conciliation, the Assistant Collector shall record a finding to this effect and proceed to continue with the partition amongst the parties.

(3) The Collector or the Commissioner before whom the matter is taken up or is pending, after satisfying himself of there being a likelihood for an agreement on the partition amongst the parties by mediation and conciliation may in the manner as provided for in sub-section (1) above refer the matter for mediation, which shall be decided in the same manner.

Provided that in case the matter is referred to a panel, the third mediator shall be nominated by the Collector or the Commissioner as the case may be.

(4) In the event of failure to resolve the dispute by conciliation and mediation within thirty days, the Collector or the Commissioner who made the reference, shall record a finding to this effect and proceed to decide the matter amongst the parties.

(5) A Revenue-officer may accept, modify or reject the settlement reached at in the mediation, recording his reasons for doing so in his decision respecting the matter which was referred to mediation and conciliation.]

116. Procedure [on]<sup>52</sup> admission of application <sup>53</sup>[and disposal of question as to title]:

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<sup>52</sup> The word, "on" is recommended to be substituted for the word; "for".

<sup>53</sup> The words. "and disposal of question as to title" are recommended to be added.

<sup>54</sup>[(1) The Revenue - officer, on the application not being refused or the conciliation not being successful and upon a question of title being raised, shall by recording reasons within thirty days decide whether such question is involved between the applicant and the respondent.

(2) In case a question of title is involved between the applicant and the respondent, the Revenue-officer shall decline to grant the application for partition until the question has been determined by a Court of competent jurisdiction and if no such question is involved, he shall proceed with the partition.]

117. [Mode of making the partition specifying the]<sup>55</sup> property to be divided. -

<sup>56</sup>[The Revenue - officer after making such enquiry including that of visiting the spot, wherever necessary, and taking into account relevant factors such as possession of parties on the land, its location and quality, finalize the mode of partition specifying therein the property to be divided.]

<sup>57</sup>[118. Land to be allotted to the applicant and others:

(1) The Revenue - Officer shall allot specific portions of the land to the applicant in accordance with the mode of partition.

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<sup>54</sup> Section 116 is recommended to be amended/ substituted from the present procedure provided and at present is as follows: -

116. Procedure for admission of application. - If the Revenue-officer, does not refuse the application under the last foregoing section, he shall ascertain the question, if any, in dispute between any of the persons interested distinguishing between-

- (a) question as to title in the property of which partition is sought and;
- (b) questions as to the property to be divided, or the mode of making the partition.

<sup>55</sup> The words; "Disposal of questions as to title in" are recommended to be substituted with; "Mode of making the partition specifying the".

<sup>56</sup> Section 117 is recommended to be substituted from the present Section 117. The provisions under Section 117 of the Act relating to the Revenue Officer himself proceeding to determine the question as though he was such a Court, has been recommended to be omitted. Section 117 at present is as follows: -

117. Disposal of questions as to title in the property to be divided. - (1) When there is a question, as to title in any of the property of which partition is sought, the Revenue-officer may decline to grant the application of partition until the question has been determined by a competent Court or he may himself proceed to determine the question as though he were such a Court.

(2) When the-officer himself proceed is to determine the question the following rules shall apply, namely-

(a) if the question is one of over which a Revenue Court has jurisdiction, the Revenue-officer shall proceed as a revenue court under the provisions of the Punjab tenancy Act, 1887 (XV of 1887).

(b) If the question is one over which a Civil Court has jurisdiction, the procedure of the Revenue-officer shall be that applicable to the trial of an original suit by a Civil Court and he shall record a judgment and decree containing the particulars required by the Code of Civil Procedure to be specified therein.

(c) An appeal shall lie from the decree of the Revenue-officer under clause (b) as though that decree were a decree of a Subordinate Judge in an original suit.

(d) Upon such an appeal being made, the District Court or High Court, as the case may be, may issue an injunction to the Revenue-officer requiring him to stay proceeding pending the disposal of the appeal.

(e) From the appellate decree of a District Court upon such an appeal, a further appeal shall lie to the High Court if such further appeal is allowed by the law for the time being in force.

<sup>57</sup> Section 118 is recommended to be substituted from the present Section 118. Section 118 at present relates to; "Disposal of other questions." At present it reads as follows: -

"118. Disposal of other questions. (1) When there is a question as to the property to be divided, or the mode of making a partition, the Revenue Officer shall, after such enquiry, as he deems necessary, record an order stating his decision on that question and the reasons for the decision.

(2) No appeal shall lie against the decision referred to in sub-section (1)."



(2) After an order has been passed under Sub Section (1) of this Section, the Revenue-officer shall proceed to prepare the instrument of partition under Section 121 of this Act irrespective of any party withdrawing from the proceedings.

Explanation: Non-appearance of any party shall be construed as his withdrawing from the proceedings.]

119. Administration of property excluded from partition: - When any such property as is referred to in section 112, clause (2), is excluded from partition, the Revenue-officer may determine the extent and manner to and in which the co-sharer and other persons interested therein may make use thereof, and the proportion in which expenditure incurred thereon and profits derived therefrom, respectively, and to be borne by and divided among those persons or any of them.

120. Distribution of revenue and rent after partition: - (1) The amount of revenue to be paid in respect of each of the holdings into which land has been divided on partition, and the amount of rent to be paid in respect of each of the portions into which a tenancy has been so divided, shall be determined by the Revenue-officer making the partition.

<sup>58</sup>[Explanation: In case the area of land under tenancy is reduced as a result of partition, the rent payable by the tenant shall be proportionately decreased.]

(2) The determination of the Revenue-officer, as to the revenue to be paid in respect of each holding, shall, where the estate in which the holding is situate is subject to a fixed assessment, be determined to be an order under section 56, sub-section (1).

<sup>59</sup> [ ]

121. Instrument of partition: - <sup>60</sup>[(1)] When a partition is completed, the Revenue-officer shall cause an instrument of partition to be prepared <sup>61</sup>[at the expiry of sixty days from the order passed under section 118 of this Act and it shall take effect after thirty days of its first copy being issued.]

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<sup>58</sup> The 'Explanation' is recommended to be added.

<sup>59</sup> Sub-section (3) is recommended to be omitted. The same at present reads as follows: -

"Where new estates have been created at the partition and the land-revenue has been fraudulently or erroneously distributed among them, the State Government, may, within twelve years from the time of discovery of the fraud or error, order a new distribution of the land-revenue among the several estates on an estimate of the assets of each estate at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same."

<sup>60</sup> Sub-section No. "(1)" is recommended to be inserted to Section 121 of the Act as another sub-section (2) is being added.

<sup>61</sup> This portion is recommended to be substituted for; "and the date on which the partition is to take effect to be recorded therein.

<sup>62</sup>[Explanation: A partition shall be taken to be complete on an order passed under section 118 of this Act.

(2) An instrument of partition shall be amended or modified in the event of an order passed under section 118 of this Act is set aside, modified or reversed in appeal, review or revision.]

122. Delivery of possession of property allotted, on partition:- An owner [ ]<sup>63</sup> to whom any land [ ]<sup>64</sup> is allotted in proceedings for partition shall be entitled to possession thereof as against the other parties to the proceedings and their legal representatives, and a Revenue-officer shall, on application made to him for the purpose by any such owner at any time within three years from the date <sup>65</sup>[of] instrument of partition under the last foregoing section, give effect to that instrument so far as it concerns the applicant as if it were a decree for immovable property.

123. Affirmation of partition privately effected: - (1) In any case in which a partition has been made without the intervention of a Revenue-officer, any party thereto may apply to a Revenue-officer for an order affirming the partition.

(2) On receiving the application, the Revenue-officer shall inquire into the case, and, if he finds that the partition has in fact been made, he may make an order affirming it and proceed under sections 119, 120, 121 and 122, or any of those sections, as circumstances may require, in the same manner as if the partition had been made on an application to himself under this Chapter.

124. Power to make rules as to costs of partitions: - The Financial Commissioner may make rules for determining the costs of partitions under this Chapter and the mode in which such costs are to be apportioned.

<sup>66</sup>125. [ ]

126. Officers who may be empowered to act under this Chapter: - The Revenue-officer by whom proceedings may be taken under this Chapter shall be a Revenue-officer of a class not below that of Assistant Collector of the first grade.

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<sup>62</sup> The "Explanation" and Sub-section (2) are recommended to be added.

<sup>63</sup> The words; "or tenant" are recommended to be omitted.

<sup>64</sup> The words; "or portion of a tenancy, as the case may be," are recommended to be omitted.

<sup>65</sup> The word; "of" is recommended to be substituted for; "recorded in the"

<sup>66</sup> Section 125 is recommended to be omitted. At present Section 125 reads as follows;

125. Re-distribution of land according to custom. - When by established custom any land in an estate is subject to periodic and redistribution a Revenue-officer may, on the application of any of the land-owners, enforce the redistribution according to the custom, and for the purpose may exercise all or any of powers of a Revenue-officer in proceeding for partition.

CHAPTER XII.  
SUPPLEMENTAL PROVISIONS.

Miscellaneous

153. Computations of periods limited for appeals and application for review. - In the computation of the period for an appeal from, or an application for the review of, an order under this Act, the limitation therefor shall be governed by the <sup>67</sup>[Limitation Act, 1963 (Act 36 of 1963)].

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<sup>67</sup> To be substituted for the "Indian Limitation Act, 1908 (Act IX of 1908)"