

Revenue Commission Punjab.

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The Commission during the course of its meetings noticed the provisions of Rule 72 of the Punjab Land Revenue Rules, 1909, which has been substituted by Punjab Government Notification No. G.S.R. 13/ P.A.17/ 1887/ S.46 Amd. (21)/ 2017 dated 28.02.2017 w.e.f. 31.03.2017. The said Rule 72 provides for two formats to be used for recording Jamabandis. The two formats that have been given are regarding preparation of Jamabandis, viz. (1) where the computerization work has not been done, and (2) where the computerization work has been done. Below the two formats 'notes' are recorded below Rule 72 and a sub para of the notes is regarding 'presumption of truth attaches to the entries.' The said sub para of the notes reads as follows: -

"The presumption of truth attaches to the entries so made only in respect of occupancy tenant and of lessee, for a period more than 20 years, in an estate outside a Municipality or Cantonment and it is only in regard to such person, that careful enquiry is necessary."

A perusal of the above sub para of the notes below Rule 72 gives the impression that presumption of truth attaches to the entries of a Jamabandi only in respect of occupancy tenant and of lessee, for a period of more than 20 years and that to in an estate outside Municipality or Cantonment. Besides, it is mentioned that is only in regard to such person that a careful enquiry is necessary.

The above sub para of the notes is contrary to Section 44 of the Punjab Land Revenue Act, 1887 which reads as under: -

"44. Presumption in favour of entries in Records-of-rights and annual records – An entry made in a record-of-rights in accordance with the law for the time being in

force, or in an annual 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."

The above Section, which is part of the statutory enactment is to prevail over the Punjab Land Revenue Rules, 1909 (as amended). In terms of Section 44 of the Punjab Land Revenue Act, there is a presumption in favour of entries in the records of rights and in the annual records, which are presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor. As such, the presumption of truth in the Jamabandi cannot be limited to occupancy tenant or lessee for a period of more than 20 years and that to in an estate outside of a Municipality or a Cantonment.

In regard to entries in the revenue records, the law has been fairly well settled and delineated that there is a presumption of truth attached to them and like other presumption is rebuttable. The Privy Council as far as back in the year 1937 in the case: *Maharaja Sir Kesho Prasad Singh Bahadur v. Bahuria Mt. Bhagjogna Kuer and others*, AIR 1937 Privy Council page 69, in regard to entries in the record of rights held that entries made in such Government records as Record of Rights are evidence of title mainly because they are good evidence of possession, but if contrary to the fact as to possession at the time they were made they carry little, if any, weight. This has been the law consistently.

The Hon'ble Supreme Court in *Chote Khan v. Mal Khan*, AIR 1954 Supreme Court page 575 held that by Section 44 of the Punjab Land Revenue Act, 1887 an entry made in the record of rights or in an annual record shall be presumed to be true until contrary is proved. Further, that entries in the Jamabandi fall within the purview of the record of rights under section 31 of the said Act admits no doubt.


Therefore, there being a presumption of correctness in favour of entry in the records of rights, the same is not liable to be limited, "only in respect of occupancy tenant and of lessee for a period of more than 20 years in an estate outside a Municipality or Cantonment", which has been erroneously provided by the sub para below the notes to Rule 72 of the Punjab Land Revenue Rules by the Notification dated 28.02.2017.

The Commission, therefore, recommends that the said sub para below Rule 72 of the Punjab Land Revenue Rules, 1909 as substituted by notification dated 28.02.2017 be omitted in its entirety.

Dated:09.11.2021

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