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THE PUNJAB TENANCY ACT, 1887

Act No. 16 of 1887

with

Punjab Tenancy Rules 1909

As Amended upto date

with

Latest Case Law

and Rules and Notifications

Alongwith

Punjab Petition Writers (Revenue) Rules, 1982

and

The Punjab Occupancy Tenants

(Vesting of Proprietary Rights) Act, 1952

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THE PUNJAB TENANCY

ACT, 1887

(Act No. 16 of 1887)

As

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- ✓ THE PUNJAB TENANCY RULES, 1909
- ✓ THE PUNJAB PETITION WRITERS (REVENUE) RULES, 1982
- ✓ THE PUNJAB OCCUPANCY TENANTS (VESTING OF PROPRIETARY RIGHTS) ACT, 1952

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NOTIFICATIONS

PUNJAB LAW AGENCY



THE PUNJAB TENANCY ACT, 1887

(Act No. 16 of 1887)

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S.C.O. 4 and 5 (First Floor)

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Behind K.C. Cinema, Sector 17-B,

Chandigarh. 160017

Phone : 0172-5071706, Mobile 9815652222

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(Punjab Act No. 8 of 1953)

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- 81 Punjab Land Revenue Act, 1887—Occupancy rights—Exparte proceedings—Mutations—Summons sent to a wrong address supplied by the respondents tenants—Impugned order—Assistant Collector had withdrawn its Exparte order—The very basis of mutation entries became non est—Order regarding entries of—Mutations cannot be maintained. ; **Kanwar Bhan v. Rashid : 2008(3) ALL INDIA LAND LAWS REPORTER (FC) 546**
- 82 Civil Procedure Code, 1908, Order 23, Rule 1—Punjab Security of Land Tenures Act, 1953—Civil Court has no jurisdiction to entertain the suit for possession of the agricultural land as the suit for eviction of a lessee/tenant can be filed only before the Revenue Court under the provisions of the Punjab Tenancy Law read with Punjab Security of Land Tenure Act, 1953—The provisions of the those Acts are applicable only in case the landlord wants to eject the tenant from the agricultural land—There is no evidence that the defendants are tenants on the suit land—Once it has been found that they are not the lessee of the suit land, it cannot be said that the present suit is not maintainable in view of the provisions of the Punjab Tenancy Law read with Punjab Security of Land Tenure Act, 1953. ; **Gurdeep Singh and others v. Dera Gossian and another : 2008(3) ALL INDIA LAND LAWS REPORTER (P&H) 727**
- 88 With the enforcement of 1953 Act, plaintiffs, occupancy tenants, claim ownership rights as per provisions of S. 3 of the Act—Jurisdiction—Lower Court decided civil Court decided civil Court had the jurisdiction to try the suit—Plaintiffs prayer is based on the nature of tenancy—Whether plaintiffs were occupancy tenants on the relevant date is the question—Which could be decided only under the Punjab Tenancy Act, 1877—Section 77(3)(d)—Such a decision, if in the affirmative would entitle the plaintiffs to enlargement of their occupancy tenants rights into proprietary rights—And it is the revenue Court alone which can go into the question—Civil Court has no jurisdiction—Trial Court directed to return the plaint to plaintiffs for presentation to the Revenue Court Punjab Tenancy Act, 1887, Section 77(3)(d)—Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953—Section 10—Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953—Section 10—Occupancy Tenants; **Omkar Singh v. Nirmal : 2001(1) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 208.**
- 90 Govt. Land in illegal cultivating possession—No rent paid—Trespasser sought to be ejected under Land Tenures Act, 1953—Commissioner found under Section 21

THE **PUNJAB TENANCY ACT, 1887**

[Act No. 16 of 1887]

Chapter - I : Preliminary

Case Law

ਵਿੱਤੀ ਕਮਿਸ਼ਨਰਜ਼ ਸਕੱਤਰੇਤ ਪੰਜਾਬ

ਪ੍ਰਸਤਕਾਲਾ

ਐਕਸੈਸ਼ਨ ਨੰ 14292

ਕਲਾਸ ਨੰ :



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of the 1953 Act, State could not eject a tenant—Further observed that State was competent to eject its tenant under Punjab Tenancy Act, 1887—Made a reference of F.C.—Recommendations of the Commissioner accepted—Punjab Security of Land Tenures Act, 1953—Sections 9 and 24—Haryana Public Premises and Lands (Rent Recovery and Eviction) Act, 1972—Sections 4 and 5.; **Amar Nath v. State of Haryana**; 1999(3) ALL INDIA LAND LAWS REPORTER (F.C., Hry.) 283.

1. **Short title, extent and commencement.**—(1) This Act may be called the Punjab Tenancy Act, 1887.

(2) It extends to the whole of the territories [—] (The words "including the pargana of "Spiti" omitted by the Government of India (Adaptation of Indian Laws) Order, 1937) [—] (The words "for the time being" were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937) administer by the [(Subs. for the word "Lieutenant Governor" by the Government of India (Adaptation of Indian Laws) Order, 1937, Section 4(1)) [State] (Sub. for the word "Provincial" by the Adaptation of Laws Order, 1950) Government of] [Punjab] (Subs. for "East Punjab" (which had been subs. for "Punjab" by the Indian Independence (Adaptation of Central Acts and Ordinance) Order, 1948) by the Adaptation of Laws Order, 1950) [—]] (The word "except the Hazara District" omitted by the Indian (Adaptation of Existing Indian Laws) Order, 1947) and

(3) It shall come into force on such day as the [State] (Sub. for the word "Provincial" by the Adaptation of Laws Order, 1950) Government with the previous sanction of the [Central Government] (Subs. for the words "Governor-General in Council by the Government of India (Adaptation of Indian Laws) Order, 1937) may by notification appoint in this behalf.

2. **Power to make rules in anticipation of commencement.**—(Repealed) (Repealed by the Repealing and Amendment Act, 1891 (XII of 1891), Section 2(1)).

3. **Repeal.**—[Repealed] [Repealed by the Repealing and Amendment Act, 1891 (XII of 1891)]

4. **Definitions.**—In this Act, unless there is something repugnant in the subject or context, —

(1) "Land" means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes the sites of buildings and other structures on such land.

(2) "pay" with its grammatical variations and cognate expression, includes, when used with reference to rent, "deliver", and "render", with their grammatical variations and cognate expressions;

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(3) "rent" means whatever is payable to a landlord in money, kind or service by a tenant on account of the use or occupation of land held by him;

(4) "arrear of rent" means rent which remains unpaid from the date on which it becomes payable;

(5) "tenant" means a person who holds land under another person, and is or but for a special contract would be, liable to pay rent for that land to that other person; but it does not include—

(a) an inferior landowner, or

(b) a mortgagee of the rights of a landowner, or

(c) a person to whom a holding has been transferred, or an estate or holding has been let in farm under the Punjab Land Revenue Act, 1887 (XVII of 1887), for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear, or

(d) a person who takes from the [Government] [Subs. for the word "Crown" by the adaptation of Laws Order, 1950] a lease of unoccupied land for the purpose of subletting it:

(6) "landlord" means a person under whom a tenant holds land and to whom the tenant is, or but for a special contract would be liable to pay rent for that land:

(7) "tenant" and "landlord" include the predecessors and successor in interest of a tenant and landlord, respectively:

(8) "tenancy" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions:

(9) "estate" "landlord" and "holding" have the meanings, respectively, assigned to those words in the Punjab Land Revenue Act, 1887;

(10) "land revenue" means land revenue assessed under any law for the time being in force or assessable under the Punjab Land Revenue Act, 1887 (XVII of 1887), and includes—

(a) any rate imposed in respect of the increased value of land due to irrigation, and

(b) any sum payable in respect of land, by way of quit-rent or of commutation of service, to the [Government] [Subs. for the word "Crown" by the Adaptation of Laws Order, 1950] or to a person to whom the [Government] [Subs. for the word "Crown" by the Adaptation of Laws Order, 1950] has assigned the right to receive the payment:

Sections:- 1 - 4

- (11) "rates and cesses" means rates and cesses which are primarily payable by landowners, and includes, —
- (a) [—] [Repealed by Repealing and Amendment Act, 1891 (XI of 1891)]
 - (b) the local rate, if any payable under the Punjab District Boards Act, 1883 (XX of 1883), and any fee leviable under Section 33 of that Act from landowners for the use of, or benefits derived from, such works as are referred to in Section 20, clauses (i) and (j) of that Act;
 - (c) any annual rate chargeable on owners of lands under Section 59 of the Northern India Canal and Drainage Act, 1873 (VIII of 1873)
 - (d) the zaildari and village officer's cesses; and
 - (e) sums payable on account of village expenses;
- (12) "village-cess" includes any cess, contribution or due which is customarily leviable within an estate and if neither a payment for the use of private property or for personal service, nor imposed by or under any enactment for the time being in force:
- (13) "village officer" means a chief headman, headman or patwari.
- (14) "Revenue Officer" or "Revenue Court" in any provisions of this Act means a Revenue Officer or Revenue Court having authority under this Act to discharge the function of a Revenue Officer or Revenue Court as the case may be under that provisions:
- (15) "jagirdar" includes any person, other than a village servant, to whom the land revenue of any land has been assigned in whole or in part by the [Government] [Subs. for the word "Crown" by the Adaptation of Laws Order, 1950] or by an officer of the [Government] [Subs. for the word "Crown" by the Adaptation of Laws Order, 1950]:
- (16) "legal practitioner" means any legal practitioner within the meaning of the Legal Practitioner Act, 1879 (XVIII of 1879) except a mukhtar.
- (17) "agriculture year" means the year commencing on the sixteenth day of June, or on such other date as the [State] [Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950] Government may by notification appoint for any local area:
- (18) "notification" means a notification published by authority of the [State] [Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950] Government in the Official Gazette: and

Sections:- 1 - 4

- (19) "imprisonment" means, with reference to a tenancy any work which is suitable to the tenancy and consistent with the conditions on which it is held by which the value of the tenancy has been and continues to be increased, and which, if not executed on the tenancy, is either executed directly for its benefit, or is, after execution made directly beneficial to it.

Explanation 1. — It includes, among other things —

- (a) the construction of wells and other works for the storage or supply of water for agricultural purposes;
- (b) the construction of works for drainage and for protection against floods;
- (c) the planting of trees, the reclaiming, enclosing, levelling and terracing of land for agricultural purposes and other works of a like nature;
- (d) the erection of buildings required for the more convenient or profitable cultivation of a tenancy; and
- (e) the renewal of construction of any of the foregoing works, or such alternations therein, or additions thereto, as are not of the nature of mere repairs and as durably increase their value;

But it does not include such clearances, embankments, levellings enclosures, temporary well and water channels as are made by tenants in the ordinary course of cultivation and without any special expenditure, or any other benefit accruing to land from ordinary operations of husbandry.

Explanation II. — A work which benefits several tenancies may be deemed to be with respect to each of them, an improvement.

Explanation III. — A work executed by a tenant is not improvement if it substantially diminishes the value of any other part of his landlord's property.

- (20) [—] [Omitted by the Indian (Adaptation of Existing Indian Laws) Order, 1947, Section 4(1)]

Case Law

S. 4—Landlord and Tenant—Relationship of—Can come into existence as a result of agreement—Agreement may be express or implied—Implied relationship may be inferred from the conduct of the parties—Payment of rent is one of the factors; 1990(1) ALL INDIA LAND LAWS REPORTER 61.

Section 4(1)—Land Revenue Assessment Rules, 1929, Rule 2(2)—Punjab Security of Land Tenures Act, 1953, Section 27(e)—Surplus area—'Gair Mumkin' as well as 'Barani' Land computed towards total holding of the landowner for

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assessing the surplus area—The 'Barani' Land if falls within the ambit of 'Banjar Jadid' or 'Banjar Kadim' has to be excluded from surplus area—Matter remitted to the Collector to ascertain the extent of Gair Mumkin land, Banjar Kadim and Banjar Jadid at the relevant date and recompute the permissible area and decide the case afresh. ; Wing Commander Paramprit Singh v. State of Punjab : 2009(1) ALL INDIA LAND LAWS REPORTER (P&H) 135

Sections 4(1) & 5— Grant of ownership rights in lieu of occupancy rights—Lands involved are described as Banjar Qadim—Not a land within the meaning of Section 4(1) of the 1887 Act—No occupancy rights can be claimed by the Tenants—And such occupancy rights cannot further ripen into ownership rights.; **Dharam Singh (deceased) L.Rs. and others v. Bhagwan Singh and others : 2005(3) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 172**

Section 4(1) & 5— Tenants rights to be declared occupancy Tenants—Where a tenancy has last forever 50 years on a nominal rent inspite of inflation in agricultural prices, and no demand for enhancement of rent was made, and there was an implied promise not to eject long and uninterrupted possession by tenants would entitle them to grant of occupancy rights as also ownership rights.; **Dharam Singh (deceased) L.Rs. and others v. Bhagwan Singh and others : 2005(3) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 172**

Section 4(1)—Plaintiff seeks partition of suit property as he is the Co-sharer to the extent of 1/2 share in property—Defendants have encroached upon his share—Defendants written statement is (i) suit not maintainable (ii) suit bad for non joinder of necessary parties (iii) plaintiff has abandoned his right, title interest and defendants have become owners of land—Trial Court dismissed the suit of plaintiffs—Lower appellate whereas upheld the contention of plaintiff further held that land described as Gair Mumkin Khad or Gair Mumkin Kalar does not come within the definition of land as provided under Section 4 of Punjab Tenancy Act, 1887, Civil Court had jurisdiction to try the suit—Once upon a time the suit bearing and is a nature of plots—For all intents and purposes, the suit land which once was agricultural stands converted into residential now—Revenue officer have no jurisdiction to effect partition of non-agricultural land—This was upheld and appeal by defendants was dismissed—Civil Procedure Code, 1908—Section 9—Punjab land Revenue Act, 1887—Section 110.; **Challu etc. v. Khushi Ram : 2001(1) ALL INDIA LAND LAWS REPORTER (P&H) 381**

Section 4(3) & (4)—Rent—Arrears of Rent—According to the definition, rent means whatever is payable to a landlord in money, kind or service by a tenant on account of the use or occupation of land held by him and arrears of rent means rent which remains unpaid from the date on which it became payable—Words and Pharas.; **Sardar Singh v. State of Punjab : 2000(3) ALL INDIA LAND LAWS REPORTER (P&H) 28**

Section 4(5)—Status of tenant—Petitioner and Respondent are brothers who inherited land from their father and there was family settlement—Redemption of land by respondent does not confer status of a tenant on petitioner—To confer status of tenant rent should be recorded in revenue record—No entry of petitioner

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being tenant in jamabandi—Column of rent also empty—Entry of petitioner in revenue record as a co-sharer gair maurisi does not ispo facts convey the status of a tenant.; **Bhoora Ram v. Mukh Ram : 2002(1) ALL INDIA LAND LAWS REPORTER (FC, Hry) 327**

Section 4(5)—Haryana Utilisation of Surplus and other Areas Scheme, 1976—Tenant permissible area—Suit for recovery of rent—Tenant denied relationship of tenant and landlord—Land having been declared surplus, was tenants permissible area, have vested in the State—No where in this record, land had been recorded as T.P.A.—Jamabandi record shows plaintiffs as owners and defendants as cultivators—Plaintiffs suit was decreed by A.C. and confirmed upto F.C.—Appeal—Tenant has to apply for T.P.A. and T.P.A. has to be specifically declared by competent authority—Land in dispute was never declared T.P.A.—Till then tenant has to continue to payment—Writ petition fails—Haryana Ceiling on Land Holdings Act, 1972.; **Lal Chand v. The Sub Divisional Officer (Civil)-cum-Assistant Collector : 2002(1) ALL INDIA LAND LAWS REPORTER (P&H) 627**

Sections 4(5) and 4(8)—Tenancy—Is constituted by the factum of cultivation plus payment of rent—In present case, respondent claimed to be tenants but no receipts of payment of rent have been produced—Claim vitiated.; **Thakurdwara Nityanand Mandir Khudan v. Dharpal : 2003(1) ALL INDIA LAND LAWS REPORTER (F.C. Hry.) 226**

Ss. 4(5) and (6)—Landlord and tenant—Relationship of—Plea that relationship of landlord and tenant come to an end as ejectment order passed for non-payment of rent for Rabi 1983—Such order and plea would not govern the relationship earlier to Rabi 1983; **1990(1) ALL INDIA LAND LAWS REPORTER 391.**

S. 4(5)—Appellant claims possession as a tenant—The question of fact has been decided against the appellant by the lower appellate Court—And mere mention of word "Ghair Marusi" does not clothe him with that status; **1995(2) ALL INDIA LAND LAWS REPORTER 10.**

Sections 4(6) and 14—Landlord: is a person under whom the tenant holds the land and to whom tenant is liable to pay rent—But the term in Section 14 is not used in relation to a tenant as the land may not been occupied with consent—And inspite of tenant having given up possession of the land, landlord is liable for arrears are made recoverable under Section 77(3) (n) of the Punjab Tenancy Act—Strictly speaking inspite of the tenant having gone out of the land, the owner remains a landlord till the arrears are paid/recovered.; **Vijay Singh v. The Financial Commissioner, Haryana and others : 2003(3) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 515**

Sections 4(6), 14 & 77—Whether a mortgagee in possession can successfully maintain a suit for recovery of rent from landlord/mortgagor is the question to be decided—In this case the petitioner is the mortgagee with possession and the respondents 5 to 9 are the mortgagers now as tenants inducted by the plaintiff himself—Version of the plaintiff that dependents 5 to 9 are in possession of the land, possession parted with by petitioner by an oral agreement as parties had good relations—Even if the defendants had occupied the land forcibly, they would

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be entitled to pay rent to the petitioner—Suit as ordered by Asstt. Collector 1st Grade in favour of plaintiff/petitioner is decreed.; **Vijay Singh v. The Financial Commissioner, Haryana and others** : 2003(3) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 515

Chapter - II : Right of Occupancy5. Tenants having right of occupancy.—(1) A tenant –

(a) who at the commencement of this Act has, for more than two generations in the male line of descent through a grant-father or grand-uncle and for a period of not less than twenty years, been occupying land paying no rent therefor beyond the amount of the land revenue thereof and the rates and cesses for the time being chargeable thereon, or

(b) who having owned land, and having ceased to be landowner thereof otherwise than by forfeiture to the Government or than by any voluntary act, has, since he ceased to be landowner continuously occupied the land, or

(c) who, in a village or estate in which he is settled along with or was settled by, the founder thereof as a cultivator therein, occupied land on the twenty-first day of October, 1868, and has continuously occupied the land since that date, or

(d) who being jagirdar of the estate or any part of the estate in which the land occupied by him is situate, has continuously occupied the land for not less than twenty years, or, having been such jagirdar, occupied the land while he was jagirdar and has continuously occupied it for not less than twenty years;

has a right of occupancy in the land so occupied, unless, in the case of a tenant belonging to the class specified in clause (c), the landlord proves that the tenant was settled on land previously cleared and brought under cultivation by, or at the expense of, the founder.

(2) If a tenant proves that he has continuously occupied land for thirty years and paid no rent thereof beyond the amount of the land revenue thereof and the rates and cesses for time being chargeable thereon it may be presumed that he has fulfilled the conditions of clause (a) of sub-section (1).

(3) The words in that clause denoting natural relationship denotes also relationship by adoption, including therein the customary appointment of an heir and relationship, by the usage of a religious community.

Case Law

Sections 5 and 8—Punjab Occupancy Tenets (Vesting of Proprietary Rights Act, 1953, Section 3—Punjab Village Common Lands (Regulations) Act, 1961, Section

Section:- 6

4, & 4(3)—Vesting of Rights in Panchayats and non proprietors—Appellants had not accorded a status similar to occupancy tenants by custom or otherwise (though not recorded as occupancy tenants in the revenue record), such as Dholdars, Bholdars, Butimars, Basikhuophaus, Saunjidars and Mugararidars- Appellants were not mortgagees in favour of whom, the land was mortgaged with possession—The Panchayat had vested right in the land in dispute. Held, Section 4(3) will be attracted only if the following 3 conditions are satisfied :-

i) the person must be cultivating land which is part of Shamlat deh of village

ii) he should be cultivating such land for a period of 12 years immediately preceeding the commencement of the Act; and

iii) he should be cultivating such land without payment of charges in excess of the land revenue and cess. ; **Puran & Ors. v. Gram Panchayat, Faridabad** : 2006(2) ALL INDIA LAND LAWS REPORTER-(Supreme Court) 319

Sections 5 and 8, Right of Occupancy—Such is based on title—Title is not made out—Appellants could not establish that they took the suit land from Gram panchayat in the year 1966 and held the land under the Gram Panchayat as lessee and occupied it consciously for thirty years in the manner described in sub Section (2) of Section 5—They are precluded from establishing a right of occupancy. ; **Puran & Ors. v. Gram Panchayat, Faridabad** : 2006(2) ALL INDIA LAND LAWS REPORTER (Supreme Court) 319

Sections 5, 8 and 84—Occupancy rights—Grant of—Cultivation of land proved for being more than 30 years—Crucial Jamabandi on the record for relevant year is tampered copy—Photocopy of the duly attested jamabandi is at variance with copy of Jamabandi on record—Collector directed to decide afresh after summoning original revenue record and giving full opportunity to the parties. ; **Het Ram v. Badlu** : 2002(3) ALL INDIA LAND LAWS REPORTER (FC, Hry.) 87

—S. 5(2)—Occupancy tenant—Tenant—Tenant in continuous possession of a price of land for more than 30 years and paying no rent beyond the amount of land revenue—Presumption is that such a tenant fulfills the conditions of clause (a) for Section 5(1)—Entitled to claim apportionment of compensation under the Land Acquisition Act, 1990(1) ALL INDIA LAND LAWS REPORTER 53.

Section 5(3) & 82—Application is for review of order recorded by the previous F.C.—Finding recorded are that none of tenants, petitioners, have qualified the condition of holding the tenancy for over 30 years—Not entitled to get benefit under Section 5 of the Tenancy Act—Held—This finding of fact cannot be challenged in review—No merit in review application—Disallowed.; **Harbans Singh v. State of Punjab** ; 1998(1) ALL INDIA LAND LAWS REPORTER (F.C., Pb.) 490

6. Right of occupancy of other tenants recorded as having the right before passing of punjab tenancy act, 1868.—A tenant recorded in a record-of-rights sanctioned by the [State] [Subs. for the words "Provincial" by the Adaptation of Laws Order, 1950] Government before the twenty-first day of October, 1868, as a tenant having a right of occupancy in land

Sections:- 7 - 11

which he has continuously occupied from the time of the preparation of that record, shall be deemed to have a right of occupancy in that land unless the contrary has been established by a decree of a competent Court in a suit instituted before the passing of this Act.

7. **Right of occupancy in land taken in exchange.**—If the tenant has voluntarily exchanged the land, or any portion of the land, formerly occupied by him for other land belonging to the same landlord, the land taken in exchange shall be held to be subject to the same right of occupancy as that to which the land given in exchange would have been subject if the exchange had not taken place.

8. **Establishment of right of occupancy on grounds other than those expressly stated in act.**—Nothing in the foregoing sections of this Chapter shall preclude any person from establishing a right of occupancy on any ground other than the grounds specified in those sections.

Case Law

S. 8—F.C. has admitted the claim of tenant as occupancy tenant on the basis of long occupation, no increase of rent when agricultural produce prices have escalated and improvements were made without approval of the land-owner, not objected to by him—Land-owner is in appeal—Held—(i) Mere length of possession does not entitle a tenant to become an occupancy tenant—Such an intention is to be reflected at the inception of tenancy—(ii) annual rent was increased on mere than one occasions—(iii) documents submitted for power connection for tubewell have not been produced—Order passed by Revenue Authorities that respondent had acquired occupancy tenant rights cannot legally be sustained—Set aside—Order passed by the Assistant Collector 1st Grade dismissing suit of the tenant is restored; 1995(2) ALL INDIA LAND LAWS REPORTER 146.

9. **Right of occupancy not to be acquired by mere lapse of time.**—No tenant shall acquire a right of occupancy by mere lapse of time.

10. **Right of occupancy not to be acquired by joint owner in land held in joint ownership.**—In the absence of custom to the contrary no one of several joint owners of land shall acquire a right of occupancy under this Chapter in land jointly owned by them.

11. **Continuance of existing occupancy-rights.**—Notwithstanding anything in the foregoing sections of this Chapter, a tenant who immediately before the commencement of this Act has a right of occupancy in any land under an enactment specified in any line of the first column of the following table shall, when this Act comes into force, be held to have, for all the purposes of this Act, a right of occupancy in that land under the enactment specified in the same line of the second column of the table: -

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PUNJAB TENANCY ACT, 1868 (XXVIII of 1868)			THIS ACT	
First column			Second Column	
Section	Clause	Section	Sub-section	Clause
1	2	3	4	5
5	(1)	5	(1)	(a)
5	(2)	5	(1)	(b)
5	(3)	5	(1)	(c)
5	(4)	5	(1)	(d)
6	...	6
8	...	8

Chapter - III : **RENT: Rents generally**

12. **Respective rights of landlord and tenant to produce.** (1) The rent for the time being payable in respect of a tenancy shall be the first charge on the produce thereof.

(2) A tenant shall be entitled to tend, cut and harvest the produce of his tenancy in due course of husbandry without any interference on the part of his landlord.

(3) Except where rent is taken by division of the produce the tenant shall be entitled to the exclusive possession of the produce.

(4) Where rent is taken by division of the produce—

(a) the tenant shall be entitled to the exclusive possession of the whole produce until it is divided,

(b) the landlord shall be entitled to be present at, and take part in the division of the produce, and

(c) when the produce has been divided, the landlord shall be entitled to the possession of his share thereof.

13. **Commutation and alteration of rent.**—Where rent is taken by any of the following methods, namely: -

(a) by division or appraisal of the produce,

(b) by rates fixed with reference to the nature of the crops grown,

(c) by a rate on a recognized measure of area,

(d) by a rent in gross on the tenancy, or

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(e) partly by one of the methods specified in clause (a), (b) and (c) of this sub-section and partly by another or others of them;

one of those methods shall not be commuted in whole or in part into another without the consent of both landlord and tenant.

(2) In the absence of a contract or a decree or order of competent authority to the contrary, a tenant whose rent is taken by any of the methods specified in clauses (a), (b) and (c) of sub-section (1), or by the methods specified in clause (d) of that sub-section, shall not be liable to pay for a tenancy rent at any higher rate, or of a higher amount, as the case may be, than the rate or amount payable in respect of the tenancy for the preceding agricultural year.

14. Payments for land occupied without consent of landlord.—Any person in possession of land occupied without the consent of the landlord shall be liable to pay for the use of occupation of that land at the rate of rent payable in the preceding agricultural year, or if rent was not payable in that year, at such rate as the Court may determine to be fair and equitable.

Case Law

Section 14-Mesne profits—Recovery of—Petitioner Purchasing land in good faith from a person who sold them in bad faith- Petitioners occupied the land with the consent of those purporting to be the owners-The person who illegally and wrongly alienated the land not a party in the suit- -No relationship of owner and tenant between respondent and the petitioners-Relying Shimla Banking and Industries case- Based on lis pendens based on maxim pendente lite, nihil innovetur meaning that pending the suit nothing should be changed-Held ignorance is no excuse, but willful and blatant deception also should not be rewarded-Held further section 14 of Punjab Tenancy Act not applicable in the present case and petitioners not liable to pay mesne profits.; **Jai Singh & ors. v. Smt. Reshma and anr.: 2003(2) ALL INDIA LAND LAWS REPORTER (F. C. Hry) 354**

S. 14—Plaintiff was in cultivating possession as co-sharer—Plaintiff impugns the orders of D.D.P.O. imposing penalty of Rs. 1,78,000/- for use and occupation for period for which no rent had been paid as well as passed order of eviction—Trial Court dismissed the suit as order of DDPO, (as Collector) was binding on the plaintiff—Lower appellate Court accepted the appeal slashed the amount of penalty equal to the loss accrued to the Gram Panchayats and it comes to Rs. 4,500/- per year for two years—Held—Unauthorised occupant is liable to pay at the rate of rent payable and in case no rent is payable, as decided by the Court—Tenancy Act comes to rescue—Calculation of lease money done by the lower appellate Court seems to be proper—No illegality or infirmity is discernible—Punjab Village Common Lands (Regulation) Rules, 1964—Rule 29-A; **1995(2) ALL INDIA LAND LAWS REPORTER 258.**

Sections:- 15 - 18

Section 14(A)(ii)—Recovery of rent from tenant—Ejectment of tenant—Once the land is declared surplus, it vests in State—Landowner had no right to seek ejectment of the tenant—No grounds to vary the orders of F.C. or to differ with same.; **Sarup Singh v. The Financial Commissioner, Haryana ; 1998(1) ALL INDIA LAND LAWS REPORTER (P&H) 452**

15. Collection of rents of undivided properly.—When two or more persons are landlords of a tenant in respect of the same tenancy, the tenant shall not be bound to pay part of the rent of his tenancy to one of those persons and part to another.

Produce-rents

16. Presumption with respect to produce rents removed before division or appraisement.—Where rent is taken by division or appraisement of the produce, if the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due division or appraisement thereof, or deals therewith in a manner contrary to established usage, the produce may be deemed to have been as the fullest crop of the same description on similar land in the neighbourhood for that harvest.

17. Appointment of referee for division or appraisements.—If either the landlord or the tenant neglects to attend, either personally, or by agent, at the proper time for making the division or appraisement of the produce or if there is a dispute about the division or appraisement, a Revenue-Officer may, on the application of either party, appoint such person as he thinks fit to be a referee to divide or appraise the produce.

18. Appointment of assessors and procedure of referee.— (1) When a Revenue-Officer appoints referee under the last foregoing section, he may, in his discretion give him instructions with respect to the association with himself or any other persons as assessors, the number, qualifications and selection of those assessors, and the procedure to be followed in making the division or appraisement.

(2) The referee so appointed shall make the division or appraisement in accordance with any institutions which he may have received from the Revenue Officer under the last foregoing sub-section.

(3) Before making the division or appraisement the referee shall give notice to the landlord and the tenant of the time and place at which the division or appraisement will be made, but, if either the landlord or the tenant fails to attend either personally or by agent, the referee may proceed ex parte.

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(4) For the purpose of making the division or appraisalment, the referee, with his assessors, if any, may enter upon any land on which or into any building in which the produce is.

19. Procedure after division or appraisalment.— (1) The result of the division or appraisalment shall be recorded and signed by the referee, and the record shall be submitted to the Revenue Officer.

(2) The Revenue Officer shall consider the record, and, after such further inquiry, if any, as he may deem necessary, shall make an order either confirming or varying the division or appraisalment.

(3) The Revenue Officer shall also make such order as to the costs of the reference as he thinks fit.

(4) The cost may include the remuneration of the referee and of the assessors, if any, and may be levied from the applicant before the appointment of the referee subject to adjustment as the close of the proceedings.

20. Enhancement of produce rents of occupancy tenants.— Where the rent of tenant having a right of occupancy in any land is a share of the produce, or of the appraised value thereof, with or without an addition in money, or is paid according to rates fixed with reference to the nature of the crops grown, or is a rent in gross payable in kind, the tenant shall be entitled to occupy the land in that rent.

Provided that when the land or any part thereof previously not irrigated or flooded becomes irrigated or flooded, the rent payable in respect of the land or part may, subject to the provisions of this Act, be enhanced to the share of rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for irrigated or flooded land of a similar description and with similar advantages.

Case Law

Section 20—The application of the petitioners for recovery of share of produce was that a copy of the jamabandi was not attached with the petition which is mandatory as per the Punjab Tenancy Act—A perusal of the order of the Assistant Collector, 1st Grade clearly indicates that the large number of opportunities were given to the petitioner for filing of the jamabandi which he failed—Application was rightly rejected—Petition dismissed. ; Balbir Singh v. Sukhbir Singh : 2009(1) ALL INDIA LAND LAWS REPORTER (Financial Commissioner) 238

21. Reduction of rents referred to in the last foregoing section.— When the land, or any part of the land, held by a tenant having a right of occupancy to whom the last foregoing section applies ceases to be irrigated or

Sections:- 22 - 24

flooded, the rent payable in respect of the land or part may be reduced to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy for unirrigated or unflooded land of a similar description and with similar advantages.

22. Enhancement of cash rents of occupancy tenants.— (1) Where a tenant having a right of occupancy pays his rent entirely by a cash-rate on a recognized measure of area or by a cash-rent in gross on his tenancy, the rent may be enhanced on the ground that after deduction therefrom of the land revenue of, and the rates and cesses chargeable on the tenancy, it is

(a) if the tenant belongs to the class specified in clause (a) of sub-section (1) of Section 5, less than two annas per rupee of the amount of the land revenue;

(b) if he belongs to any of the classes specified in clauses (b), (c) and (d) of that sub-section less than six annas per rupee of the amount of the land revenue;

(c) if he belongs to the class specified in Section 6, or if his right of occupancy is established under Section 8 and his rent is not regulated by contract less than twelve annas per rupee of the amount of the land revenue.

(2) In a case to which sub-section (1) applies, the rent may be enhanced to an amount not exceeding two, six or twelve annas per rupee of the amount of the land revenue as the case may be, in addition to the amount of the land revenue of the tenancy and the rates and cesses chargeable thereon.

(3) [-] [Sub-clause (3) (added by Punjab Act XI of 1925) was omitted by the Indian (Adaptation of Existing Indian Laws) Order, 1947. S. 4(1)]

23. Reduction of rents referred to in the last foregoing section.— The rent payable by a tenant to whom the last foregoing section applies may be reduced on the ground that the productive powers of his tenancy have been decreased by a cause beyond his control.

General Provisions relating to suits for Enhancement or reduction of Rent

24. Enhancement and reduction of rent by suits.— (1) A Revenue Court, on the suits of either landlord or tenant, may, subject to the provisions of this and other sections of this Act, enhance or reduce the rent of any tenant having a right of occupancy,

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(2) Where a decree for the enhancement of the rent of such a tenant has been passed under the Punjab Tenancy Act, 1868, (XXXVIII of 1868), a suit for a further enhancement of his rent shall not lie till the expiration of five years from the date of the decree, unless in the meantime the local area in which the land comprised in the decree is situate has been generally reassessed and the revenue payable in respect of that land has been increased.

(3) Subject to the provision of sub-section (2), a suit instituted for the enhancement of the rent of a tenant having a right of occupancy shall not be entertained in either of the following cases, namely:

(a) If within the ten years next preceding its institution his rent has been commuted under Section 13 or enhanced under this section;

(b) if within that period a decree has been passed under this Act dismissing on the merits a suit for the enhancement of his rent; unless of land or some part of the land comprised in his tenancy, not having irrigated, or flooded at the time of such commutation enhancement or decree, has become irrigated or flooded.

(4) [—] (Sub-clause (3) (added by Punjab Act XI of 1925) was omitted by the Indian (Adaptation of Existing Indian Laws) Order, 1947. S. 4(1)]

25. Direction as to extent of enhancement or reduction.—In enhancing or reducing the rent of any land; under the foregoing provisions of this chapter, the Court shall within the limits prescribed by those provisions, enhance or reduce the rent to such an amount as it considers fair and equitable, but shall not in any case fix the rent at a sum less the amount of the land revenue of the land and the rates and cesses chargeable, thereon.

26. Time for enhancement or reduction to take effect.—(1) Unless the Court decreeing an enhancement of rent otherwise directs the enhancement shall take effect from the commencement of agricultural year next following the date of the decree.

(2) A Court decreeing a reduction of rent shall specify in the decree the date on and from which the reduction is to take effect.

27. Adjustment of rents expressed in terms of the land revenue.—

(1) Where the rent of a tenancy is the whole or a share of the land revenue thereof, with or without an addition in money, kind or service, and the land revenue of the holding in which the tenancy is situate is altered, a Revenue-Officer having authority under Section 56 of the Punjab Land Rev-

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enue Act, 1887, (XXXII of 1887), to determine the land revenue payable in respect of the several holdings comprised in the estate in which the tenancy is situate shall determine also the amount of the land revenue of the tenancy, or the proportionate share thereof payable by the tenant as rent.

(2) Where an addition referred to in sub-section (1) is a percentage fixed with reference to the land revenue of the tenancy, or the whole or a share of the rates and cesses chargeable thereon, or both, the Revenue Officer shall in like manner from time to time alter the amount of the addition in proportion to any alteration of such land revenue or rates and cesses.

(3) The sum or sums determined under the foregoing sub-sections, together with any additions previously payable other than the additions referred to in sub-section (2), shall be the rent payable in respect of the tenancy until there is again an alteration of the land revenue thereof or of the rates and cesses chargeable thereon or until the rent is enhanced by a suit under this Act.

(4) An alteration of rent under this section shall not be deemed an enhancement or reduction or rent within the meaning of this Act.

[(5) --] [Sub-section (5) (added by Punjab Act XI of 1925) was omitted by the Indian Adaptation of Existing Laws) Order 1947. Section 4(i)].

[27-A. -] [Sec. 27-A together with the heading omitted by the Indian (Adaptation of Existing Indian Laws) Order, 1947 Section 4(i)]

28. Alteration of rent on alteration of area.—Every tenant shall—

(a) be liable to pay additional rent for all land proved to be in excess of the area for which rent has been previously paid by him, unless it is proved that excess is due to the addition to his tenancy of land which, having previously belonged to the tenancy, was lost by diluvion or otherwise without any reduction of the rent being made; and

(b) be entitled to an abatement of rent in respect of any deficiency proved to exist in the area of his tenancy as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenancy by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(2) In determining the area for which rent has been previously paid the Court shall have regard to the following among other matters namely:—

(a) the origin and conditions of the tenant's occupancy for instance whether the rent was a rent in gross for the entire tenancy;

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(b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord; and

(c) the length of time during which there has been no dispute as to rent or area.

(3) In adding to or abating rent under this section, the Court shall add to or abate the rent to such an amount as it deems to be fair and equitable, and shall specify in its decree the date on and from which the addition or abatement is to take effect.

(4) An addition to or abatement of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

Remission

29. Remission of rent by courts decreeing arrears.—Notwithstanding anything in the foregoing sections of this Chapter if it appears to a Court making a decree for an arrear of rent that the area of a tenancy has been so diminished by diluvion or otherwise or that the produce thereof has been so diminished by drought, hail deposit of sand or other like calamity, that the full amount of rent payable by the tenant cannot be equitably decreed, the Court may with the previous sanction of the Collector, allow such remission from the rent payable by tenant as may appear to it to be just.

30. Remission and suspension of rent consequent on like treatment of land revenue.—[(1) Whenever the payment of the whole or any part of the land revenue payable in respect of any land is remitted or suspended, a Revenue Officer may, if the rent be payable in cash or be rent payable in kind of which the amount is fixed by order, remit or suspend, as the case may be the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land revenue of which payment has been remitted or suspended bears to the whole of land revenue payable in respect of the land: (Substituted for the old sub-section by Punjab Act 1 of 1906, Section 3)]

Provided that in the case of an occupancy-tenant, whose rent is of the nature hereinbefore in this sub-section described, the remission or suspension of the land revenue payable in respect of the land shall, in the absence of a written order by a Revenue Officer to the contrary carry with it a proportionate remission or suspension, as the case may be of his rent.

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When the payment of the rent of any kind has been suspended under this clause it shall remain under suspension until the Collector orders the revenue of that land to be realized.) (Substituted for the old sub-section by Punjab Act 1 of 1906, Section 3)

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court.

(3) A suit shall not lie for the recovery of any rent of which the payment has been remitted, or during the period of suspension, of any rent of which the payment has been suspended.

(4) Where the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent.

[(5) If the landlord collects from a tenant any rent of which the payment has been remitted, or is under suspension, the Revenue Officer may recover from the landlord the amount or value of rent so collect, and may also recover by way of penalty a further sum not exceeding such amount or value, and may cause to be refunded to the tenant the amount or value of the rent so collected from him.] [Subs. for the old sub-section by Pb. Act 1 of 1906 Section 4]

(6) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, so far as they can be made applicable to land of which the land revenue has been released, compounded for or redeemed in any case in which, if the land revenue in respect of the land had not been released compounded for or redeemed, the whole or any part of it might in the opinion of the Revenue Officer, be remitted or suspended under the rules for the time being in force regulating the remission and suspension of land revenue.

[(7) Any sum of which the recovery is ordered under sub-section (5) on account of rent or penalty may be recovered by the Collector as if it were an arrear of land revenue.] [Added by Pb. Act 1 of 1906, Section 5]

DEPOSITS

31. Power to deposit rent in certain cases with revenue officer.—

- In either of the following cases, namely:

(a) when a landlord refuses to receive, or grant a receipt for, any rent payable in money when tendered to him by a tenant.

(b) when a tenant is in doubt as to the person entitled to receive rent payable in money,

Sections:- 32 - 33

the tenant may apply to a Revenue Officer for leave to deposit the rent in his office, and the Revenue Officer shall receive the deposit if after examining the applicant, he is satisfied that there is sufficient ground for the application and if the applicant pays the fee, if any, chargeable for the issue of the notice next hereinafter referred to.

32. Effect of depositing rent.- (1) When a deposit has been so received it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

(2) The Revenue Officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled thereto or may, if he thinks fit, retain the deposit pending the decision of a competent Court as to the person so entitled.

(3) No suit or other proceeding shall be instituted against the [Government] (Subs. for the word "Crown" by the Adaptation of Laws Order, or against any officer of the [Government] in respect of anything done by a Revenue Officer under this section, but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue Officer.

33. Recovery of rent from attached produce.— (1) If an order is made by any Court for the attachment of the produce of a tenancy or of any part of a tenancy, the landlord may apply to the Revenue Officer by whom the attachment is to be or has been made to sell the produce and pay to him out of the proceed of the sale thereof the amount or value of —

(a) any rent which has fallen due to him in respect of the tenancy within the year immediately preceding the application and

(b) the rent which will be falling due after the harvesting of the produce and is chargeable against it.

(2) The Revenue Officer shall give the person at whose instance the attachment was made an opportunity of showing cause why the application of the landlord should not be granted, and, if he finds the landlord's claim to the whole or any part of the rent to be proved he shall cause the produce are such portion thereof as he may deem necessary to be sold and shall apply the proceeds of the sale in the first instance to satisfy the claim.

(3) The finding of the Revenue Officer under sub-section (2) shall have the force of a decree in suit between the landlord and the tenant.

Sections:- 34 - 35

Leases for Period exceeding term of Assessment of Land Revenue

34. Treatment of leases for period exceeding or equal to term of assessment of land revenue.— (1) Where a lease has been granted or an agreement has been entered into, by a landowner in respect of any land, assessed to land revenue fixing for a period exceeding the term for which the land revenue has been assessed, the rent or other sum payable in respect of the land under the lease or agreement, and that term has expired, lease or agreement shall be voidable—

(a) at the option of the landowner if the land revenue of the land has been enhanced and the person to whom the lease has been granted or with whom the agreement has been entered into refuses to pay such rent or other sums as a Revenue Court, on the suit of the land-owner, determines to be fair and equitable [—] [The words "or a Revenue Officer under the provisions of Section 27 -A has determined to be proper" (inserted by Section 7 of Punjab Act XI of 1925) omitted by the Indian (Adaptation of Existing India Laws) Order. 1947. Section 4(1) and

where the relation of landlord and tenant exists between the grantor and grantee of the lease or between the persons who entered into the agreement—

(b) at the option of the tenant if the land revenue of the land has been reduced and the landlord refuses to accept such rent has a Revenue Court, on the suit of the tenant, determines to be fair and equitable [—] (The words "or a Revenue officer under the provisions of Section 27-A has determined to be proper" (inserted by Section 7 of Punjab Act XI of 1925) omitted by the Indian (Adaptation of Existing Indian Laws) Order. 1947. Section 4(1)

(2) Any agreement relative to the occupation, rent, profits or produce of any land which has been entered into for the term of the currency of an assessment shall, unless a contrary intention clearly appears in the agreement is terminated by consent of parties or course of law, continue in force until a revised assessment takes effect.

CHAPTER - IV : RELINQUISHMENT, ABANDONMENT AND EJECTMENT
RELINQUISHMENT

35. Relinquishment by tenant for a fixed term.— A tenant holding for a fixed term-under a contract or a decree or order of competent authority may relinquish his tenancy without notice at the end of that term.

Sections:- 36 - 39

36. Relinquishment by any other tenant.— Any other tenant may relinquish his tenancy by giving verbally or in writing to his landlord, or to his landlord's agent, on or before the fifteenth day of January in any year, notice of his intention to relinquish the tenancy at the end of the agricultural year then current.

(2) The tenant may, instead of, or in addition to, giving the notice in the manner mentioned in sub-section (1), apply to a Revenue Officer on or before the date aforesaid to cause the notice to be served on the landlord, and the Revenue Officer on receiving the cost of service from the tenant, shall cause the notice to be served as soon as may be.

(3) If the tenant does not give notice in the manner prescribed in this section, he shall be liable to pay the rent of his tenancy for any part of the ensuing agricultural year during which the tenancy is not let by the landlord to some other person or is not cultivated by the landlord himself.

37. Relinquishment of part only of tenancy.— A tenant cannot, without the consent of his landlord, relinquish a part only of his tenancy.

ABANDONMENT

38. Abandonment of tenancy by occupancy tenant.—(1) If a tenant having a right of occupancy fails for more than one year without sufficient cause to cultivate his tenancy, either by himself or some other person, and to arrange for payment of the rent thereof as it falls due, the right of occupancy shall be extinguished from the end of that year.

(2) [—] Sub clause (2) of Section 38 (inserted by Punjab Act XI of 1925) was omitted by the Indian (Adaptation of Existing Laws) Order, 1947. Section 4(i)

EJECTMENT : LIABILITY OF EJECTMENT

39. Grounds of ejectment of occupancy tenant.— (1) A tenant having a right of occupancy shall be liable to, be ejected from his tenancy on any of the following grounds, namely:

(a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purpose for which he held it;

(b) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate;

(c) when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied.

(2) [—] (Omitted by the Indian (Adaptation of Existing Law) Order 1947. Section 4(i).

Section:- 40**Case Law**

—Ss. 39, 40 and 48—Subletting and non-payment of the rent to the land-owners established in the Court of Assistant Collector Grade I—Further held that relationship of landlord/tenant existed between the parties—Ejectment ordered—Upheld by the Collector in appeal—In appeal Commissioner reversed the order—Allowed the tenant to pay arrears of rent under S. 48 of the Act—F.C. reversed orders of the Commissioner and restored orders of the Collector observing that S. 48 applied to tenants falling under S. 39(a) and (b) and S. 40—Case of petitioners falls under neither—Benefit of S. 48 cannot be allowed; 1992(2) ALL INDIA LAND LAWS REPORTER 591.

Section 39 to 41—Plaintiff suit for restraining defendants from interfering with their possession—Jamabandi of 1971-72 and again of 1991-92 show plaintiffs recorded as tenants of the defendants—At lease prima facie Revenue Act, Section 122 would not be applicable—Concurrent findings of the court below is that—Provisions of 39 to 41 Tenancy Act, readwith Section 42 of the same Act give a complete protection to the tenant—Cannot be ejected except for procedure prescribed therein—This view does not appear to be erroneous—Plaintiffs being original tenants under the original landowner, the suit as decreed by lower court is confirmed—Punjab Land Revenue Act, 1887—Section 122.; Gurudwara Sahib Patshahi Naumi Guri Teg Bahadur Sahib Hind v. Jaggar Singh. : 2000(4) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 48.

40. Grounds of ejectment of tenant for a fixed term: - A tenant not having a right of occupancy but holding for a fixed term under a contract or a decree or order of competent authority, shall be liable to be ejected from his tenancy at the expiration of that term, and, on any of the following grounds, before the expiration thereof namely:

(a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it;

(b) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate;

(c) on any ground which would justify ejectment under the contract decree or order.

Case Law

Sections 40 and 77—Ejectment from agricultural land ordered by collector, upheld by Commissioner—Revision petitioners had done some construction on the land for agricultural purposes and keeping agricultural equipment therein—They have also made available drinking water on the road side for general public—Construction is in the nature of home stead for agricultural purposes—No damage or harm is caused to anyone if the homestead can be used by the passers by and if water is made available to them—No evidence that the shop like constructions are being used for commercial purposes—Ejectment orders are set aside. ; Kesho Ram v. Kamla Devi : 2000(2) ALL INDIA LAND LAWS REPORTER (FC, Hry.) 194

Sections:- 41 - 45

41. **Ejectment of tenant from year to year.**—A tenant who has not a right of occupancy and does not hold for a fixed term under a contract or a decree or order of competent authority, may be ejected at the end of any agricultural year.

PROCEDURE OF EJECTMENT

42. **Restriction of ejectment.**—A tenant shall not be ejected otherwise than in execution of a decree for ejectment, except in the following cases, namely:

- (a) when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied;
- (b) when the tenant has not a right of occupancy and does not hold for a fixed term under a contract or a decree or order of competent authority.

43. **Application to revenue officer for ejectment.**—In any such case as is mentioned in clause (a) or clause (b) of the last foregoing section the landlord may apply to a Revenue Officer for the ejectment of the tenant in the case mentioned in the former clause or for the service on the tenant of a notice of ejectment in the case mentioned in the latter clause.

44. **Ejectment for failure to satisfy decree for arrear of rent.**—(1) On receiving the application in any such case as is mentioned in clause (a) of Section 42 the Revenue Officer shall, after such inquiry, with respect to the existence of the arrear as he deems necessary, cause a notice to be served on the tenant stating the date of the decree and the amount due thereunder, and informing him that if he does not pay that amount to the Revenue Officer within fifteen days from receipt of the notice he will be ejected from the land.

(2) If the amount is not so paid the Revenue Officer shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant unless good cause is shown to the contrary.

45. **Ejectment of tenant from year to year by notice.**—(1) On receiving the application of the landlord in any such case as is mentioned in clause (b) of Section 42, the Revenue Officer shall, if the application is in order and not open to objection on the face of it cause a notice of ejectment to be served on the tenant.

(2) A notice under sub-section (1) shall not be served after the fifteenth day of November in any [agricultural] (Ins. by the Rep. and Amending Act, 1891 (XII of 1891) year.

Section:- 46

(3) The notice shall specify the name of the landlord on whose application it is issued and describe the land to which it relates, and shall inform the tenant that he must vacate the land before the first day of May next following, or that, if he intends to contest his liability to ejectment, he must institute a suit for that purpose in a Revenue Court within two months from the date of the service of the notice.

(4) The notice shall also inform the tenant that if he does not intend to contest his liability to be ejected and he has any claim for compensation on ejectment, he should within two months from the date of the service of the notice prefer his claim to the Revenue Officer having authority under the next following sub-section to order his ejectment in the circumstances described in that sub-section.

(5) If within two months from the date of the service of the notice the tenant does not institute a suit to contest his liability to be ejected a Revenue Officer, on the application of the landlord shall, subject to the provisions of his Act with respect to the payment of compensation, order the ejectment of the tenant:

Provided that the Revenue Officer shall not make the order until he is satisfied that the notice was duly served on the tenant.

(6) If within those two months tenant institutes a suit to contest his liability to be ejected and fails in the suit, the Court by which the suit is determined shall by its decree direct the ejectment of the tenant.

Case Law

Section 45--Revenue Act, talks of a right which an aggrieved person may agitate if he is in possession of the land—Applicants here were deprived of the possession by an order of the State as early as about 1902—And later confirmed by consolidation proceedings—Stood so for years as having been decided by the then Tehsildar and Nazim—This would then operate as res-judicata to the present application—The position is different—Those not in possession want the record of rights to be amended and such request cannot be entertained by the Revenue Court as per Section 158(2)(vi)—Decree or decision of a Revenue Court having no jurisdiction could not operate as res-judicata—Suit for declaration is to be filed under Specific Relief Act—Jurisdiction of Civil Court is not barred by Section 77(3) of Punjab Tenancy Act, Punjab Land Revenue Act, 1887—Section 45-A; **1995(2) ALL INDIA LAND LAWS REPORTER 372/373.**

46. **Power to make rules.**—The Financial Commissioner may make rules prescribing

- (a) the form and language of application and notices under the two last foregoing sections; and

Sections:- 47 - 49

(b) the manner in which those applications and notices are to be signed and attested.

GENERAL PROVISIONS RESPECTING EJECTMENT

47. **Time for ejectment.**- A decree or order for the ejectment of a tenant shall not be executed at any other time than between the first day of May and the fifteenth day of June (both days inclusive), unless the Court making the decree or, where the order is made under Section 44, the officer making the order, otherwise directs.

48. **Relief against forfeiture.**— (1) If in a suit for the ejectment of a tenant on either of the grounds mentioned in clauses (a) and (b) of Section 39 or of Section 40, it appears to the Court that the injury caused by the Act or omission on which "the suit is based is capable of being remedied, or that an award of compensation will be sufficient satisfaction to the landlord therefore, the Court may, instead of making a decree for the ejectment of the tenant, order him to remedy the injury within a period to be fixed in the order, or order him to pay into Court, within such a period; such compensation as the Court thinks fit.

(2) The Court may from time to time, for special reasons, extend a period fixed by it under sub-section (1).

(3) If within the period, or extended period, as the case may be, fixed by the Court under this section, the injury is remedied or the compensation is paid, a decree for the ejectment of the tenant shall not be made.

49. **Rights of ejected tenants in respect of crops and land prepared for showing.**— (1) Where at the time of the proposed ejectment of a tenant from any land his uncut or ungathered crops are standing on any part thereof, he shall not be ejected from that part until the crops have ripened and he has been allowed a reasonable time to harvest them.

(2) The Court or Revenue Officer decreeing or ordering the ejectment of the tenant may, on the application of the landlord, determine any dispute arising in consequence of the provisions of sub-section (1) between the landlord and tenant or between the landlord and any person entitled to harvest the crops of the tenant, and may in its or his discretion—

(a) direct that the tenant pay for the longer occupation of the land secured to him under sub-section (1) such rent may be fair and equitable, or

(b) determine the value of the tenant's uncut and ungathered crops, and, on payment thereof by the landlord to the Court or Revenue Officer, forthwith eject the tenant.

Sections:- 50 - 52

(3) When a tenant for whose ejectment proceedings have been taken has conformably with local usage prepared for sowing any land comprised in his tenancy but has not sown or planted crops on that land, he shall be entitled to receive from the landlord before rejection a fair equivalent in money for the labour and capital expended by him so preparing the land, and the Court or Revenue Officer before which or whom the proceedings are pending shall, on the application of the tenant, determine the sum payable to the tenant under this sub-section stay his ejectment until that sum has been paid to him.

RELIEF FOR WRONGFUL DISPOSSESSION

50. **Relief for wrongful dispossession or ejectment.**- In either of the following cases, namely—

(a) if a tenant has been dispossessed without his consent of his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of an order under Sections 44 and 45

(b) if a tenant who, not having instituted a suit under Section 45, has been ejected from his tenancy or any part thereof in pursuance of an order under that Section denies his liability to be ejected.

The tenant may, within one year from the date of his dispossession or ejectment, institute a suit for recovery of possession or occupancy or for compensation, or for both.

50-A. **Bar of civil suits.**- No person whose ejectment has been ordered by a Revenue Court under Section 45, sub-section (6), or whose suit has been dismissed under Section 50, may institute a suit in a civil court to contest his liability "to ejectment, or to recover possession or occupancy rights or to recover compensation". (Inserted by Punjab Act V of 1929 Section 2)

51. **Bar of relief by suit under section 9, act 1 of 1877.**- Possession of a tenancy or of any land comprised in a tenancy shall not be recoverable under section 9 of the Specific Relief Act, 1877. (1 of 1877) (by a tenant dispossessed thereof.) (Inserted by Punjab Act V of 1929 section 2)

POWER TO VARY DATES PRESCRIBED BY THIS CHAPTER

52. **Power for [state] government to fix dates for certain purposes.**— (Subs. for the words "Provincial" by the Adaptation of Laws Order, 1950) (1) The [State] (Subs. for the words "Provincial by the Adaptation of Laws Order, 1950) Government may, for an or any of the territories under its administration, by notification, fix for the purposes of Sections 36, 45 and 47 or any of those sections, any other dates instead of those specified therein.

Sections:- 52(A) - 53

- (2) A notification under this section shall not take effect till after the expiration of six months from the date of the publication thereof.

CHAPTER - V : *Alienation of, and Succession to, Right of Occupancy*
ALIENATION

52-A [-] (Section 52-A added by the Punjab Tenancy (Amendment) Act, 1925 (10 of 1925). Section 10 omitted by the Indian Adaptation of Existing Laws Order, 1947, Section 4(i))

53. Private transfer of right of occupancy under section 5 by tenant.- (1) A tenant having a right of occupancy under Section 5 may transfer that right by sale, gift or mortgage subject to the conditions mentioned in this section.

(2) If he intends to transfer the right by sale, gift, mortgage by conditional sale or usufructuary mortgage, he shall cause notice of his intention to be served on his landlord through a Revenue Officer and shall defer proceeding with the transfer of a period of one month from the date on which the notice is served.

(3) Within that period of one month the landlord may claim to purchase the right at such value as a Revenue Officer may, on application made to him in this behalf, fix.

(4) When the application to the Revenue Officer is to fix the value of a right of occupancy which is already mortgaged he shall fix the value of the rights as if it were not mortgaged.

(5) The landlord shall be deemed to have purchased the right if he pays the value to the Revenue Officer within such times as that officer appoints.

(6) On the value being so paid, the right of occupancy shall be extinct, and the Revenue Officer shall, on the application of the landlord, put the landlord in possession of the tenancy.

(7) If the right of occupancy was already mortgaged the tenancy shall pass to the landlord unencumbered by the mortgage but the mortgage-debt shall be a charge on the purchase-money.

(8) If there is no such charge as aforesaid the Revenue Officer shall subject to any directions which he may receive from any Court pay the purchase-money to the tenant.

(9) If there is such a charge the Revenue Officer shall, subject as aforesaid either apply in discharge of the mortgage-debt so much of the pur-

Sections:- 54 - 57

chase-money as is required for that purpose and pay the balance, if any, to the tenant, or retain the purchase-money pending the decision of a Civil Court as to the person or persons entitled thereto.

(10) Where there are several landlords of a tenancy, anyone of them may be deemed to be the landlord for the purposes of this section.

(11) No suit or other proceeding shall, be instituted against the [Government], (Subs. for the word "Crown" by the Adaptation of Laws Order, 1950) or against any officer of the [Government] (Subs. for the word "Crown" by the Adaptation of Laws Order 1950), in respect of anything done by a revenue Officer under the two last foregoing sub-sections, but nothing in this sub-section shall prevent any person entitled to receive the whole or any part of the purchase-money from recovering it from a person to whom it has been paid by a Revenue Officer.

54. Procedure on foreclosure of mortgage of right of occupancy under section 5.- Where a mortgagee of a right of occupancy under Section 5 proposes to foreclose his mortgage, or otherwise enforce his lien on the land subject to the right, the provisions of the last foregoing section shall, so far as they can be made applicable, apply as if the mortgagee were the tenant.

55. Sale of right of occupancy under section 5 in execution of decree.— (1) A right of occupancy under Section 5 may be sold in execution of a decree or order of a Court.

(2) But notice of an intended sale of any such right shall be given by the Court to the landlord, and, if at any time before the close of the day on which the sale takes place the landlord pays to the Court or to the officer conducting the sale a deposit of twenty-five per centum on the highest bid made at the sale, he shall be declared to be the purchaser instead of the person who made that bid.

56. Transfer of right of occupancy under any other section than section 5.— A right of occupancy under any other section than Section 5 shall not be attached or sold in execution of a decree or order of any Court or, without the previous consent in writing of the landlord be transferred by private contract.

57. Right and liabilities of transferee of right of occupancy.— When a right of occupancy has been transferred by sale, gift or usufructuary mortgage to a person other than the landlord that person shall, in respect of the land in which the right subsists, have the same rights and be subject to the same liabilities as the tenant to whom before the transfer the right had belonged and was subject to.

Sections:- 58 - 59

58. Subletting.— (1) A tenant having a right of occupancy in land may, subject to the provisions of this Act and to the conditions of any written contract between him and his and his landlord, sublet the land or any part thereof for any term not exceeding seven years.

(2) A person to whom land is sublet by a tenant having a right of occupancy therein shall, in respect of that land, and so far as regards the landlord be jointly with the tenant, subject to all the liabilities of the tenant under this Act.

58-A. Transfer of right of occupancy under any section of the act by exchange.— (1) Any tenant with a right of occupancy may, with the consent of his landlord, transfer his land to all the members of a Co-operative Society for the Consolidation of Holdings of which both he and his landlord are members and 'Obtain from them any other land in exchange. (Added by Punjab Act 11 of 1927 Section 2. (This amendment was made effect from the 1st day of April 1920))

(2) Notwithstanding anything contained in this Act or any other enactment in force, any land obtained in exchange in pursuance of the provisions of sub-section (1) shall be deemed to be subject to the same right of occupancy as the land given for it in exchange.]

SUCCESSION

59. Succession of right of occupancy.— When a tenant having a right of occupancy in any land dies, the right shall devolve—

(a) on his male lineal descendants, if any, in the male line of descent, and

(b) failing such descendants, on his widow, if any, until she dies or re-marries or abandons the land or is under the provisions of this Act ejected therefrom, and

(c) failing such descendants and widow, on his widowed mother, if any, until she dies or re-marries or abandons the land or is under the provisions of this Act ejected therefrom.] (Subs. for the old clause by Punjab Act IX of 1959. Section 2(i))

(d) failing such descendants and widow, or widowed mother or if the deceased tenant left a widow or widowed mother, then when her interest terminates under clause (b) or (c) of this sub-section, on his male collateral relatives in the male line on descent from the common ancestor of the deceased tenant and those relatives.] (Ins. by Punjab Act XI of 1939. Section 2(ii))

Section:- 60

Provided, with respect to clause (d) (Subs. for the letter "c" in brackets by Pb. Act IX of 1939. Section 2(iii)) of this sub-section, that the common ancestor occupied the land.

[**Explanation.**— (Added by Pb. Act 11 of 1927 Section 3. (This amendment was made effective from the 1st day of April 1920) For the purpose of clause (d), (Subs. for the letter "c" in brackets by Punjab Act. IX of 1939. Section 2(iv)), land obtained in exchange by the deceased tenant or any of his predecessors-in-interest in pursuance of the provisions of sub-section (1) of Section 58-A shall be deemed to have been occupied by the common ancestor or if the land given for it in exchange was occupied by him]

(2) As among descendants and collateral relatives claiming under sub-section (1) the right shall, subject to the provisions of that sub-section, devolve as if it were land left by the deceased in the village in which the land subject to the right is situate.

(3) When the widow of a deceased tenant succeeds to a right of occupancy, she shall not transfer the right by sale, gift or mortgagee or by sub-lease for a term exceeding one year.

(4) If the deceased tenant has left no such persons as are mentioned in sub-section (1) on whom, his right of occupancy may devolve under that sub-section the right shall be extinguished.

Case Law

Section 59— Dholidar—'Bila-Lagan-Bawaja Punrath'—Dholidar—Without payment of rent for religious purposes—Adverse possession—Plaintiff inherited all the rights of Dholidar of her husband and two brothers in the suit land—In Revenue entries they have been shown to be in cultivating possession—Defendants cannot be said to have become owners of that land by adverse possession—Appellate Court erred in holding that defendants have acquired the right of ownership by adverse possession. ; **Chand Kaur v. Tulsi Ram (Dead) through L.Rs. and ors : 2007(1) ALL INDIA LAND LAWS REPORTER (P&H) 61**

Section 59— Punjab Settlement Manual—'Dohli'—'Dohlidar'—Death bed gift from land owner—'Dohli' tenure can never be termed as occupancy tenure—Dohli tenure is not of a perpetual tenancy—It is an instance of Malik Kabza i. e. owner in possession—A 'dohlidar' is owner of land for the purpose of land revenue as well land Tenures Act—A Dholidar is in the status of Malik Kabza. ; **Chand Kaur v. Tulsi Ram (Dead) through L.Rs. and ors : 2007(1) ALL INDIA LAND LAWS REPORTER (P&H) 61**

IRREGULAR TRANSFERS

60. Irregular transfers of right of occupancy.—Any transfer made of a occupancy in contravention of the foregoing provisions of this Chapter shall be voidable at the instance of the landlord.

Sections:- 61 - 62

CHAPTER - V : IMPROVEMENT AND CONDENSATION'
IMPROVEMENTS BY LANDLORDS

61. Improvements by landlords on tenancies of occupancy tenants.— (1) without the previous permission of the Collector, a landlord shall not make an improvement on the tenancy of a tenant having a right of occupancy.

(2) If a landlord desires to make such an improvement, he may apply to the Collector or permission to make it, and the Collector shall, before making an order on the application, hear the objection, if any, of the tenant.

(3) In making an order on an application under sub-section (2) the Collector shall be guided by such rules, if any, as the [State] (Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950) Government may, [-]. (The words "with the previous sanction of the Governor-General in Council" were repealed by the Decentralization 1914 (IV of 1914) make in this behalf.

62. Enhancement of rent in consideration of an improvement made by a landlord on the tenancy of an occupancy tenant.— (1) When a landlord has, with the permission mentioned in the last foregoing section, made an improvement on the tenancy of a tenant having a right of occupancy he may apply to the Collector for an enhancement of the rent of the tenant.

(2) If the tenant is a tenant to whom Section 20 applies, the Collector shall enhance his rent to the share or rates, or with reference to his rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for land of a similar description and with similar advantages.

(3) If the tenant is a tenant to whom Section 22 applies, the Collector shall enhance his rent to such amount, as the tenant would be liable to pay under that section if the land revenue was reassessed.

(4) When the improvement ceases to exist, the Collector may, on the application of the tenant reduce the tenant's rent,

(a) in the case of a tenant to whom sub-section (2) applies, to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy for land of a similar description and with similar advantages; and

Sections:- 63 - 68

(b) in the case of a tenant to whom sub-section (3) applies, to such an amount as the tenant would be liable to pay if the land revenue were reassessed.

(5) Sections 25 and 26 shall be construed as applying to an application under this section, and a suit shall not lie in any Court for any purpose for which an application might be made under this section.

IMPROVEMENTS BY TENANTS

63. Title of occupancy tenant to make improvement.— A tenant having a right of occupancy is entitled to make improvements on his tenancy.

64. Title of tenants not having right of occupancy to make improvements.— (1) A tenant not having a right of occupancy may make improvements on his tenancy with the assent of his landlord.

(2) If at any time the question arises whether or not the landlord assented to the making of an improvement by a tenant not having a right of occupancy, the assent may be inferred from circumstances.

65. Improvements made before' commencement of this act.— Improvements made by a tenant before the commencement of this Act shall be deemed to have been made in accordance with this Act, unless in the case of a tenant not having a right of occupancy it is shown that the improvement was made in contravention 'of a written agreement between him and his landlord.

66. Improvements begun in anticipation of ejectment.— A tenant ejected in execution of a decree, or in pursuance of a notice of ejectment shall not be entitled to compensation for any improvement begun by him after the institution of the suit, or service of the notice, which resulted in his ejectment.

67. Tender of lease. for twenty years to tenant to be a bar to right to compensation.— If a landlord tenders to a tenant' a lease of his tenancy for term of not less than twenty years from the date of the tender at the rent paid by the tenant, or at such other rent as may be agreed on the tender, if accepted by the tenant shall bar any claim by him to compensation in respect of improvements previously made on the tenancy.

68. Liability to pay compensation for improvements to tenants on ejectment or on enhancement of his rent.— Subject to" the foregoing provisions of this Chapter a tenant who has made an improvement on his tenancy in accordance with this Act shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for the improvement.

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69. Compensation for disturbance of clearing tenants.— (1) A tenant who has cleared and brought under cultivation wasteland in which he has not a right of occupancy shall if rejected from that land, be entitled to receive from the landlord as compensation for disturbance in addition to any compensation for improvements a sum to be determined by a Revenue Court or Revenue Officer in accordance with the merits of the case, but not exceeding five years rent of the land.

Provided that a tenant who is a joint owner of land to which this section applies shall not be entitled to compensation for disturbance on ejectment from the land or any part thereof.

(2) If rent has been paid for the land by devision or appraisalment of the produce or by fates fixed with reference to the nature of the crops grown, or if not rent, or no rent other than the land revenue of the land and the rates and cesses chargeable thereon, has been paid therefore, the compensation may be computed as if double the amount of the land revenue of the land were the annual rent thereof.

[Provided that in any estate of which the assessment has been confirmed on or after the twenty-second day of February, 1929, the compensation may be computed as if four times the amount of the land revenue of the land were the annual rent thereof.] (Added by Punjab Act. 4 of 1933. Section 2).

PROCEDURE IN DETERMINING COMPENSATION

70. Determination of compensation by revenue courts.— (1) In every suit by a tenant to contest his liability to ejectment or by a landlord to eject a tenant or to enhance his rent, the Court shall direct the tenant to file a statement of his claim, if any, to compensation for improvements or for disturbance and of the grounds thereof.

(2) If the Court decrees the ejectment of the tenant or the enhancement of his rent it shall determine the amount of compensation, if any, due to the tenant and shall stay execution of the decree until the landlord pays into Court that amount less any arrears of rent or costs proved to the satisfaction of the Court to be due to him from the tenant.

71. Determination of compensation by revenue officers.— In either of the following cases, namely:

- (a) when a notice has been served on a tenant under Section 44,
- (b) when a notice of ejectment has been served on a tenant under Section 45 and the tenant has not instituted a suit to contest his liability to be ejected.

Sections:- 72 - 74

The tenant may apply to the Revenue Officer having authority to order his ejectment under Section 44 or Section 45 as the case may be, to determine the amount of compensation due to him for improvement or for disturbance or for both and the Revenue Officer shall determine the amount, if any, accordingly and stay the ejectment of the tenant until the landlord pays to the Revenue Officer the amount so determined less any arrears of rent or costs proved to the satisfaction of the Revenue Officer to be due to the landlord from the tenant.

72. Matters to be regarded in assessment of compensation for improvement.— In estimating the compensation to be awarded under this Chapter to a tenant for an improvement, the Court or Revenue officer shall have regard to

- (a) the amount by which the value or the produce of the tenancy or the value of that produce is increased by the improvement;
- (b) the condition of the improvement and the probable duration of its effect;
- (c) the labour and capital required for the making of such an improvement;
- (d) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement; and
- (e) in the case of a reclamation, or of the conversion of unirrigated into irrigated land, the length of time during which the tenant has had the benefit of the improvement.

73. Form of compensation.— (1) The compensation shall be made by payment in money, unless the parties agree that it be made in whole or in part by the grant of a beneficial lease of land or in some other way.

(2) If the parties so agree, the Court or Revenue Officer shall make an order accordingly.

74. Relief in case of ejectment before determination of compensation.— (1) If from any cause the amount of compensation payable to a tenant—

- (a) under this Chapter for improvements of disturbance, or
- (b) under Section 49 for the value of uncut or ungathered crops or the preparation of land or sowing, has not been determined before the tenant is ejected, the ejectment shall not be invalidated by reason of the omission, but the Court or Revenue Officer which de-

Sections:- 75 - 76

cree or who ordered the ejectment may, an application made by the tenant within one year from the date of the ejectment, correct the omission by making in favour of the tenant an order for the payment to him by the landlord of such compensation as the Court or officer may determine the tenant to be entitled to:

- (2) An order made under sub-section (1) may be executed in the same manner as a decree for money may be executed by a Revenue Court,

CHAPTER - VIII : Jurisdiction and Procedure Jurisdiction

75. Revenue officers.— (1) There shall be the same classes of Revenue Officer under this Act as under the Punjab Land Revenue Act, 1887, (XVII of 1887) and in the absence of any order of the [State] (Subs. for the word "provincial" by the Adaptation of Laws Order, 1950) Government to the contrary, a Revenue Officer of any class having jurisdiction within any local limits under that Act shall be a Revenue Officer of the, same class having jurisdiction within the same local limits under this Act.

- (2) The expressions "Collector" and "Financial Commissioner" have the same meaning in this Act as in the Punjab Land Revenue Act, 1887, (XVII of 1887).

76. Applications and proceedings cognizable, by revenue officers.— (1) The following applications and proceedings shall be disposed of by Revenue Officers as such and no Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had.

FIRST GROUP

- (a) Proceedings under Section 27 for the adjustment of rents expressed in items of the land revenue;

(aa) [—] (Clause (aa) inserted by Section 11 of Punjab Act 11 of 1925. has been omitted by the Indian (Adaptation of existing Indian Laws) Order, 1947. Section 4(1).

- (b) proceedings relating to the remission and suspension of rent under Section 30;

(c) applications under Section 43 for the ejectment of a tenant against whom a decree for an arrear of rent in respect of his tenancy has been passed and remains unsatisfied;

(d) application under Section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected but has—claimed compensation under Section 71;

Sections:- 75 - 76

- (e) applications under Section 53 or Section 54 for the fixing of the value of a right of occupancy;

(f) applications under Section 53 or Section 55 by landlord for possession of land, the right of occupancy in which has become extinct;

- (g) proceedings under Chapter VI with respect to the award of compensation for improvements or disturbance;

SECOND GROUP

- (h) application under Section 17 with respect to the division or appraisement of produce;

(i) applications under Section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected and has not claimed compensation under Section 71;

- (j) applications for the determination—

(i) under Section 49 of the rent payable for land occupied by crops uncut or ungathered at the time of an order being made for the ejectment of a tenant, or

(ii) under Section 49 or section 74 of the value of such crops or of the sum payable to the tenant for labour and capital expended by him in preparing land for sowing.

THIRD GROUP

- (k) applications under Section 31 by tenants to deposit rent;

(l) applications under Section 36 for service of notice of relinquishment;

(m) applications under Section 43 for service of notice of ejectment;

(n) applications under Section 53 or Section 54 for service of notice of intended transfer or of intended foreclosure or other enforcement of lien.

- (2) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,—

(a) a Collector or an Assistant Collector of the first grade may dispose of any of the applications and proceedings mentioned in sub-section (1);

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- (b) an Assistant Collector of the second grade, not being a Naib Tehsildar, may dispose of any of the applications mentioned in the second and third group of that sub-section; and
- (c) a Naib- Tehsildar when invested with the powers of an Assistant Collector of the second grade, may dispose of any of the applications mentioned in the third group of that sub- section.

77. Revenue courts and suit cognizable by them.— (1) When a Revenue Officer is exercising jurisdiction with respect to any such suit as is described in sub-section (3), or with respect to an appeal or other proceeding arising out of any such suit, he shall be called a Revenue Court.

(2) There shall be the same classes of Revenue Courts as of Revenue officers under this Act, and, in the absence of any order of the (Subs. for the words "Provincial" by the Adaptation of Laws Order, 1950), [State] Government to the contrary, a Revenue Officer of any class having jurisdiction within any local limits under this Act shall be a Revenue Court of the same class having jurisdiction within the same local limits.

Procedure where Revenue matter is raised in a Civil Courts.—

(3) The following units shall be instituted in, and heard and determined by, Revenue Courts, and no other Court shall take cognizance of any dispute or matter with respect to which any such suit might be instituted:

[Provided that— (Added--by Pu.niab Act 3 of 1912. Section 2)

(1) where in a suit cognizable by and instituted in a Civil Court it becomes necessary to decide any matter which can under this sub-section be heard and determined only by a Revenue Court the civil Court shall endorse upon the plaint the nature of the matter for decision and the particulars required by Order VII Rule 10, Civil Procedure Code (V Of 1908), and return the plaint for presentation to the Collector;

(2) on the plaint being presented to the Collector, the Collector shall proceed to hear and determine the suit where the value thereof exceeds Rs. 1,000 or the matter involved is of the nature mentioned in Section 77(3), First Group, of the "Punjab Tenancy Act, 1887 (XVI of 1887), and in other cases may send the suit to an Assistant Collector of the first grade for decision.]

FIRST GROUP

- (a) suits between landlord and tenant for enhancement or reduction of rent under Section 24;

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(b) suits between landlord and tenant for addition to or abatement of rent under Section 28 or for commutation or rent;

(c) suits under Section 34 for the determination of rent or other sum on the expiration of the term of an assessment of land revenue [and suits relating to the rent to be paid under a mortgage made in accordance with form (c) as prescribed by Section 6 of the (Added by Punjab Alienation of Land Act. 13 of 1900. S. 22) Punjab Alienation of Land Act, 1900- (XVI of 1900)]; (Repealed. by the Adaptation of Laws (Third Amendment) Order. 1951).

SECOND GROUP

(d) suit by a tenant to establish a claim to a right of occupancy, or by a landlord to prove that a tenant has not such a right;

(e) suits by a landlord to eject a tenant;

(f) suits by a tenant under Section 45 to contest liability to ejectment when notice of ejectment has been served;

(g) suits by a tenant under Section 50 for recovery of possession or occupancy, or for compensation or for both;

(h) suits by a landlord to set aside a transfer made of a right of occupancy, or to dispossess a person to whom such a transfer has been made or for both purposes;

(i) any other suit 'between landlord and tenant arising out of the lease or conditions on which a tenancy is held;

(j) suit for sums payable on account of village cesses or village expenses;

(k) suits by a co-sharer in an estate or holding for a share of the profits thereof or for a settlement of accounts;

(l) suits for the recovery of over-payments of rent or land revenue or of any other demand for which a suit lies in a Revenue Court under this sub-section;

(m) suits relating to the emoluments of Kanungo, Zaildars Inamdars or village Officers;

THIRD GROUP

(n) suits by a landlord for arrears of rent or the money- equivalent of rent, or for sums recoverable under Section 14; [or suits for the recovery of such arrears or sums by any other person to whom a right to recover the same has been sold or otherwise transferred] (Added by the Punjab Alienation of Land Act. 13 of 1900. S. 22)

Section:- 77

- (o) suit by a landowner to recover moneys claimed as due for the enjoyment of rights in or over land or ih, water, including rights of irrigation, rights over fisheries, rights of pasturage and forest-fights;
- (p) suits for sums payable on account of land revenue or of any other demand recoverable 'as an arrear of land revenue under any enactment for the time being in force, and by a superior landowner for other sums due to him as such.
- (4) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,-
- (a) a Collector may hear and determine any of the suits mentioned in sub-section (3);
- (b) an Assistant Collector of the first grade may hear and determine any of the suits mentioned in the second and the third groups of that sub-section, and, if he has by name been specially empowered in this behalf by the [State] (Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950 Government, any of the suits mentioned in the first group; and
- (c) an Assistant Collector of the second grade may hear and determine any of the suits mentioned in the third group.

Case Law

Section 77—Validity of sale deed—*The title claimed by the plaintiff on the basis of mutation cannot be challenge in such suits plaintiff was aggrieved against the owners of the defendant on the basis of the revenue record, he could challenge before the competent civil Court the sale deed, which resulted in sanctioning of mutation qua the disputed land and incorporation of revenue entries on the basis of that sale deed—Sale deed is valid till the same is declared invalid by the competent court of jurisdiction. ; 2009 ALL INDIA LAND LAWS REPORTER FEB. PART.*

Section 77—Jurisdiction and scope of revenue Courts—*Revenue Courts have no jurisdiction to pronounce upon the relationship of landlord and tenant under Section 77 of the Act empowers the revenue Courts to decide only certain disputes between landlord & tenant for which existence of relationship between the parties is a condition precedent—The revenue court is, entitled to pronounce upon the relationship between the parties only for the purposes of deciding disputes within its cognizance, as enumerated under Section 77 of the Tenancy Act—The decision of the revenue Court under Section 77 of the Tenancy Act on the relationship of landlord and tenant between the parties would not operate as res-judicata and it would be open to challenge in a subsequent suit or in other collateral proceedings between the parties. ; 2009 ALL INDIA LAND LAWS REPORTER FEB. PART.*

Section:- 77

Section 77—Civil Procedure Code, 1908, Section 100—New Plea—Whether a Marusi can be treated as trespasser and be ordered to be evicted/dispossessed in a suit for declaration/possession without resorting to the provisions of Section 77 of the Punjab Tenancy Act not raised before the Courts below, cannot be allowed to be raised first time in second appeal—Unless the finding of fact is shown to be the out come of misreading of evidence or are perverse the same are not open to interference in second appeal. ; **Kishan Chand v. Satya Devi and another : 2008(1) ALL INDIA LAND LAWS REPORTER (P&H) 698**

Section 77—Non payment of rent—AC I grade decreed the suit against petitioners—On appeal Collector ordered payment of rent to be made by 15.4.1996, failing which petitioner be deemed to be evicted—Commissioner held such a tenant does not deserve any sympathy—Revision dismissed by FC—Petitioners have admitted their liability—Undertook to vacate in case of failure to pay—And they have failed to pay—This writ petition is a clear attempt to by pass the process of law—In such cases no notice in form 5 is necessary.; **Manohar and others v. Financial Commissioner, Haryana : 2001(2) ALL INDIA LAND LAWS REPORTER (P&H) (DB) 535**

S. 77—Suit against custodian to claim occupancy right and property under Section 9 of the Punjab Occupancy Tenants Vesting of Property Rights Act; 1963 can be filed only in revenue Court; **1990(1) ALL INDIA LAND LAWS REPORTER 209.**

S. 77—Civil Procedure Code, 1908—Order 6, Rule 17—Prayer for amendment or written statement declined on the ground that similar prayer has not been made in the suit No. 543 of 1983— Trial Courts reasoning is untenable—Suit, not reference, is for permanent injunction and objection to jurisdiction of Civil Courts could not be taken up in that—Grant of injunction is Civil Courts domain—Amendment of written statement allowed; **1991(1) ALL INDIA LAND LAWS REPORTER 569.**

Section 77(k)—Punjab Land Revenue Act, 1887, Section 15— Suit for Rendition of Account— Suit decreed—Petitioner has filed present review application under Section 15 of the Punjab Land Revenue Act, 1887, whereas the present case was decided under the Punjab Tenancy Act, 1887— This case was decided under the Punjab Tenancy Act, 1887— Petitioner has filed the review application has not been filed under the relevant Act, so the review application is liable to be dismissed— Review application ought to have been filed under Punjab Tenancy Act, 1887 under Section 77(k).; **Raminder Singh Johal v. Meenakashi Johal & Others: 2007(3) ALL INDIA LAND LAWS REPORTER (FC) 137**

Section 77(3)—Civil Procedure Code, 1908, Section 11—Principle Res judicata— Finding of Revenue Court—Decision of a Revenue Court will be res judicata in civil court provided the decision of the revenue court will in jurisdiction of Civil Court— Decision of Revenue Court is binding on the Civil Court so far as the issue raised before it is raised again in the Civil Court— Finding recorded by the Revenue Court would operate as res judicata.; **Smt. Dhiro v. Sadhu Singh 2007(2) ALL INDIA LAND LAWS REPORTER (P&H) 665**

Section:- 77

Section 77(3)(d)—Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952—Question to be examined is if civil court has a jurisdiction to declare a tenant as occupancy Tenant, even though section 77(3)(d) of the Tenancy Act, contemplates that a suit by a tenant to establish a right to occupancy falls within the exclusive jurisdiction of Revenue Court—With the advent of the 1952 Act, the occupancy rights ceased to exist, and statutory ownership created in lieu thereof, a suit for occupancy rights would be wholly meaningless—Civil court has a jurisdiction to entertain a suit of declaration of ownership.; **Dharam Singh (deceased) L.Rs. and others v. Bhagwan Singh and others : 2005(3) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 172**

Section 77(3)(d)—Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952—Jurisdiction of Civil Court and Revenue Court—Whether after coming in force of vesting act, Civil Court would have exclusive. Jurisdiction ? (YES)—Held, After coming into force of the Vesting Act, the Civil Court alone would have the jurisdiction to determine the dispute envisaged in Section 77(3)(d) of the Act and the jurisdiction of the revenue Court would be barred—Civil suit would lie with respect to both the categories of occupancy tenants envisaged in Section 2(f) of the Vesting Act; **Shiv Charan v. Commissioner, Haryana and others : 2005(3) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) (FB) 326**

Section 77(3)(d)—Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952—Sections 2(a), 2(f) and 3—Occupancy Rights—Acquisition of—Granted by Revenue Court—Held—After coming in force of Act of 1952, revenue courts were not competent to decide the question and every tenant claiming occupancy rights automatically became owner of the land by operation of law—Impugned orders set aside.; **Surinder Kumar v. V.P. Johahr, Financial Commissioner, Haryana : 2002(3) ALL INDIA LAND LAWS REPORTER (P&H) 676**

Section 77(3)—Ejectment of Tenant—Notice as prescribed under Punjab Security of Land Tenures Act in Form N not issued to tenant—Ejectment order set aside; **Subhash Chand v. State of Haryana & Ors. ; VOL 71 ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 601**

Section 77(3)—Punjab Security of Land Tenures Act, 1887—Section 14A (ii) Form 'N'—Non-payment of rent—Ejectment order under Pb. Tenancy Act—Notice under Section 14A(ii) of Pb. Security of Land Tenures Act in form 'N' served on tenant—Non-compliance of procedure—Ejectment order set aside; **Ramesh Chand v. Subhash Chand ; VOL 71 ALL INDIA LAND LAWS REPORTER (FC.- Hry.) 157**

S. 77(3)—Court Fees Act, 1870—Deficiency in Court fees—Deficiency in Court fee cannot and does not render the suit non-maintainable—Such deficiency could be rectified by the Court during the proceedings under Punjab Tenancy Act, 1887; **1995(2) ALL INDIA LAND LAWS REPORTER 27.**

S. 77(3)—Joint land-owner—All land-owners need not be impleaded—For ejectment for Hissedari-kashi, land-owner to whose share the land under the tenant fall can maintain a suit for ejectment of tenant; **1995(2) ALL INDIA LAND LAWS REPORTER 27.**

Sections:- 78 - 79

S. 77(3)—Punjab Security of Land Tenures Act, 1953—S. 14-A—It is mandatory for the Revenue Court to issue notice in Form N as prescribed under Section 14-A(ii) of the Punjab Security of Land Tenures Act even though suit for ejectment was filed under S. 77(3) of Punjab Tenancy Act—No such procedure was followed by the Revenue Courts and the Commissioner failed to deal with this point—Ejectment of the respondent ordered by the Assistant Collector Grade I suffers from the infirmity of law—Orders set aside; **1995(2) ALL INDIA LAND LAWS REPORTER 27.**

S. 77(3)(d)—Title and ownership of the land held by an occupancy tenant would be acquired by the occupancy tenant on coming into force of the vesting Act—And, such interest of the Landlord shall extinguish in that land from that date—Jurisdiction would thereafter be only with the civil Court—Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953, Section 3; **1993(1) ALL INDIA LAND LAWS REPORTER 226.**

—**S. 77(3) and Section 15**—Payment in part of the rent to a party-Jointly owning the land, tenant is not bound to do so—Tenancy being joint the rent cannot be paid "in parts to owner parties—Suit for recovery of rent is to be one no separate suits are maintainable; **1991(1) ALL INDIA LAND LAWS REPORTER 319.**

Administrative Control

78. Superintendence and control of revenue officers and revenue courts.—(1) The general superintendence and control over all other Revenue Officers and Revenue Courts shall be vested in, and all such officers and Courts shall be subordinate to, the Financial Commissioner.

(2) Subject to the general superintendence and control of the Financial Commissioner, Commissioner shall control all other Revenue Officers and Revenue Courts in this division.

(3) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue Officers and Revenue Courts in his district.

79. Power to distribute business and withdraw and transfer cases.—The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue Officer or Revenue Court under his control.

(2) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue Officer or Revenue Court under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue Officer or Revenue Court under his control.

(3) An order under sub-section (1) or sub-section (2) shall not empower any Revenue Officer or Revenue Court to exercise any powers or deal with any, business which he or it would not be competent to exercise or deal with the local limits of his or its own jurisdiction.

Section:- 80

Appeal Review and Revision

80. Appeals.— Subject to the provisions of this Act and the rules thereunder, an appeal shall lie from an original or appellate order or decree made under this Act by a Revenue officer or Revenue Court, as follows, namely:-

- (a) to the Collector when the order or decree is made by an Assistant Collector of either grade;
- (b) to the Commissioner when the order or decree is made by a Collector;
- (c) to the Financial Commissioner when the order or decree is made by a Commissioner;

Provided that-

- (i) an appeal from an order or decree made by an Assistant Collector of the first grade specially empowered by name in that behalf by the [State] (Sub. for the word "Provincial" by the Adaptation of Laws Order, 1950) Government in a suit mentioned in the first group of sub-section (3) of Section 77 shall lie to the Commissioner and not to the Collector;
- (ii) when an original order or decree is confirmed on first appeal a further appeal shall not lie.
- (iii) when any such order or decree is modified or reversed on appeal by the Collector, the order or decree made by the Commissioner on further appeal, if any, to him shall be final.

Case Law

Sections 80, 84, 84(2)—Punjab Land Reforms Act, 1972, Section 18—Surplus area—Error in calculation—Ld. Commissioner took suo moto cognizance and directed the Collector to examine the surplus area case of petitioner in detail—Revision filed by petitioner was dismissed by the Financial Commissioner—A Commissioner, has jurisdiction to call for the record of any case disposed of by any Revenue Officer or Revenue Court under his control—But does not have suo-moto jurisdiction to set aside such an order and to issue directions in respect thereof—The directions issued by the Commissioner are limited to the examination of any error in calculation—The Collector would, therefore, be required to appraise the calculations and in the case of any prima facie error in calculation, would be required to call upon the petitioner to justify the error after recourse to the procedure established under the Act. ; Mahant Lakshmi Dhar v. Financial Comm., Taxation, Pb., Chandigarh : 2009(1) ALL INDIA LAND LAWS REPORTER (P&H) 44

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Sections 80 and 81—Appeal—Delay of 19 days in filing—Appeal should be decided on merits and not merely on ground of limitation—Order dismissing appeal on merits and not merely on ground of limitation—Order dismissing appeal on ground of limitation, quashed being delay not too long. ; Data Ram v. Financial Commissioner, Haryana : 2002(2) ALL INDIA LAND LAWS REPORTER (P&H) (DB) 666

—S. 80—H.P. Tenancy and Land Reforms Act, Section 61—Interim injunction granted in favour of Respondent No. 1 against confiscation of 619 bighas of land in favour of State—State filed appeal Commissioner vacated the stay—Respondent No.1 is in appeal before FC with the preliminary objection that appeal is not maintainable against an interlocutory order—Held—Order of the Commissioner on the stay application was not interlocutory—Appeal was maintainable—Impugned order dated 20th January, 1992 stayed—Appeal not finally decided—Case file sent back to Commissioner for deciding appeal as per law; 1993(1) ALL INDIA LAND LAWS REPORTER 145.

—Ss.80 and 81—Limitation for filing appeal—Starts from the date of order declaring surplus area comes to knowledge of person affected/interested such an order is to be recorded in form "F" and is to be forwarded to the person interested—Not done in the case; 1992(1) ALL INDIA LAND LAWS REPORTER 197.

81. Limitation for appeals.—The period of limitation for an appeal under the 1st foregoing section shall run from the date of the order or decree appealed against, and shall be allowed, 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.

82. Review by revenue officer.— (1) A Revenue Officer, as such, may either of 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 purposes 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;
- (b) no application for review of an order shall 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;

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(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 power as a 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.

Case Law

Section 82—Punjab Land Reforms Act, 1972, Section 18—Review of an order passed by predecessor in office under Section 82 of the 1887 Act—On the date when reference was made by the Collector (Agrarian) to the Commissioner, State has already preferred an appeal against the order sought to be reviewed—Bar created under proviso (d) to Section 82 of the 1887 Act was clearly applicable—Order passed by Financial Commissioner was beyond the provisions of the Act and resulted in dilution of the exception clause—Jurisdiction vested in the Financial Commissioner is ousted—Theory of merger—Clearly beyond the provisions of Act—Impugned orders declared as illegal and without jurisdiction—Writ allowed; **Spinder Singh alias Harminder Singh v. State of Punjab : 2008(1) ALL INDIA LAND LAWS REPORTER (P&H) 441**

—S. 82—Only a new material on record can call for a second review, which otherwise is not called for and the Collector (Agr.) having reviewed case earlier would act as res judicata for fresh review—Bonafides of sales keeping in view surplus area had been held valid and previous order confirmed—Second review is not the alternative remedy to appeal or revision—Repeated reviews of already reviewed orders militates against sound principles of law; **1994(2) ALL INDIA LAND LAWS REPORTER 15.**

Section 82—Review—FC has powers to review his own order and can vary or amend them—But review has to be within certain limits—In this case it is a case of apparent genuine mistake and review cannot be said to be bad in law—Another objection that review petition was filed by a different counsel—Since review involved is of an apparent mistake in the allotment order, the application cannot be said to be not maintainable.; **Des Raj alias Deso v. Financial Commissioner, Taxation, Punjab and others: 2004(1) ALL INDIA LAND LAWS REPORTER (Pb.& Hry.) 316**

Section 82—Review—Remedy of review is no substitute for appeal or revision—Review can generally resorted to only where the object is to rectify a mistake or patent error—Provision without any conditions as in Order 47, Rule 1 CPC, show the difference in two reviews statutorily provided—Civil Procedure code, 1908—Order 47, Rule 1. ; **Harbans Singh v. State of Punjab : 1998(1) ALL INDIA LAND LAWS REPORTER (P&H) 452**

Sections:- 81 - 82

Section 82—Pendency of Review proceedings for over 7 years—Such proceedings were to be considered, continued and disposed of in terms of surplus area, as if Haryana Ceiling on land Holdings Act had not been passed. ; **Sarup Singh v. The Financial Commissioner, Haryana ; 1998(1) ALL INDIA LAND LAWS REPORTER (P&H) 452**

Section 82(1)—Punjab Land Reforms Act, 1972, Section 18—Appeal review and revision—Section 82 enables to Revenue Officer to review his order or an order passed by his predecessor in office—An order passed by predecessor in his office is to be reviewed, sanction of an authority higher in rank was required—Exercise of power is subject to condition an order against which appeal had been preferred can not be reviewed—Collector (Agrarian) had passed the order that there is no surplus area with the petitioner—Aggrieved against the order, respondent-State preferred an appeal before the Commissioner—Review proceedings and order held to be without jurisdiction and liable to be quashed—Petition allowed. ; **Nand Kishore v. Kishan Lal : 2008(2) ALL INDIA LAND LAWS REPORTER (P&H) 231**

Section 82(1) Proviso (a) and (b)—Punjab Land Reforms Act, 1972, Section 18—Appeal & Review—Appeal filed by the State Govt. before Commissioner—The Collector (Agrarian) had passed the order declaring that there is no surplus area with the petitioner—Aggrieved against the order, respondent-State preferred an appeal before the Commissioner—During the pendency of appeal, before it was dismissed in default, the Collector, Agrarian sent a reference to the Commissioner, who issued notice to the petitioner for review of the order passed by the Collector (Agrarian)—As reference was required to be made to the Commissioner seeking a permission to review the earlier order passed by the Collector, Agrarian in terms of Section 82 proviso (a) of the 1887 Act, which is applicable for proceedings under the Act in terms of Section 18 of the Act whereby the provisions of the Punjab Tenancy Act, 1887, as contained in Sections 80 to 84, have been made applicable—After hearing the petitioner as well as Naib Tehsildar, Agrarian, learned Commissioner, granted permission to the Collector, Agrarian to review its order—Petitioner approached the Financial Commissioner against the order passed by the Commissioner permitting the Collector, Agrarian to review its order—The Financial Commissioner, rejected the revision petition filed by the petitioner on the ground that appeal filed by the State against the order of Collector (Agrarian) having been dismissed by the Commissioner in default, the order thereof did not merge in the order of Collector and accordingly, permission for review of the order granted by the Commissioner was perfectly legal—The reasoning given by Financial Commissioner to reject the revision filed by the petitioner against the order passed by the Commissioner permitting the Collector (Agrarian) to review its order cannot be accepted—On a plain reading of proviso (d) of Section 82 (1) of the 1887 Act, which provides that an exception to the exercise of power of revenue by the Revenue Officer, it is evident that an order against which an appeal is 'preferred' shall not be reviewed—Order passed by the Commissioner & Financial Commissioner illegal and without jurisdiction—Writ petition allowed. ; **Spinder Singh Alias Harminder Singh v. State of Punjab : 2008(3) ALL INDIA LAND LAWS REPORTER (P&H) 677**

Sections:- 83 - 84

Section 82(1)—Review of the orders passed by Revenue Authorities—Commissioner can grant sanction of review of the orders passed by the subordinate authorities—In such proceedings, the legislature wanted to exclude the principles of natural justice—Order does not directly effect persons who were parties to such order—No civil rights of the parties are affected—No hearing right to the parties—No notice is thus envisaged.; *Sarupp Singh v. The Financial Commissioner, Haryana*; 1998(1) ALL INDIA LAND LAWS REPORTER (P&H) 452

83. Computation 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 Indian Limitation Act, 1877. (Subs. for the words "Chief Court" by Act 18 of 1919).

84. Power to call for, examine and revise proceedings of revenue officers and revenue courts.— (1) The Financial Commissioner may at any time call for the record of any case pending before or, disposed of by any Revenue Officer or Revenue Court subordinate to him.

(2) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue Officer or Revenue Court under his control.

(3) If any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or the order or decree made should be modified or reversed he shall submit the record with his opinion on the case for the orders of the Financial Commissioner.

(4) If after examining a record called for by himself under sub-section (1) or submitted to him under sub-section (3) the Financial Commissioner is of opinion that it is in expedient to interfere with the proceedings or the order or decree, it shall pass an order accordingly.

(5) If, after examining the record, the Financial Commissioner is of opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the [High Court] (Subs. for the words "Chief Court" by Act 18 of 1919) in the exercise of its revisional jurisdiction may under the law for the time being in force interfere with the proceedings or an order or decree of Civil Court, he shall fix a day for hearing the case, and may, on that or any subsequent day to which he may adjourn the hearing or which he may appoint in this behalf, pass such order as he thinks fit in the case.

(6) Except when the Financial Commissioner fixes under sub-section (5) a day for hearing the case, no party has any right to be heard before the Financial Commissioner when exercising his powers under this section.

Sections:- 83 - 84

Case Law

Section 84(2)—Punjab Land Reforms Act, 1972, Section 18—Appeal—Surplus Area—Power to call for, examine and revise proceedings and to take Suo Moto notice is only with the Financial Commissioner—However empowers the Commissioner or the Collector to call for the record of any case pending before, or disposed of by any Revenue Officer or Revenue Court under his control—Commissioner does not have Suo Moto Jurisdiction to set aside such an order and to issue direction in respect thereof—An error or illegality comes to the notice of a revenue officer, more particularly, where the error or illegality has the effect of reducing surplus area, it is the duty and obligation of every revenue officer to examine the matter and thereafter either seek permission, of his immediate superior to review the orders or forward a reference to the Financial Commissioner—The Commissioner, therefore, should have forwarded a reference to the Financial Commissioner, with his comments—The order of the subordinate courts are liable to be set aside or modified—Writ petition disposed—Provisions in regard to appeal, review and revision under this Act shall be the same, as provided in Sections 80, 81, 82, 83 and 84 of the Punjab Tenancy Act, 1887.; 2009 ALL INDIA LAND LAWS REPORTER FEB. PART.

Section 84—Revision filed in court of FC- Dismissed in default, twice for non appearance—Third restoration application dismissed as earlier it had been ordered "application for restoration not likely to be entertained"- Reasons given by petitioner/ counsel did not find favour with FC- Adverse comments made on the demeanour of the Counsel- Unfortunate-Endeavour of the courts should be to decide cases on merits-On two occasions even respondent was not presents CWP allowed-Dissimissal orders Quashed- On account of adverse remarks and counter allegations by the counsel, in the interest of justice revision may be decided by some other officer- Remitted.; *Tirath Das v. State of Haryana and Ors.*: 2003(2) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 347

Section 84—Determination of surplus area—Suo motu proceedings initiated after 30 years—The words "Suo moto" have to used with some sense of natural justice and discretion—Ridiculous for State which formerly attached that land of a person, auctioned it and then maintain that its liability to re-determined as surplus be re-opened—Before re-determining the status of land the transferees had right to be heard and served with notice—Punjab Security of Land Tenures Act, Section 24.; *Bhagat Singh and others v. State of Haryana and others*: 2001(1) ALL INDIA LAND LAWS REPORTER (FC, Hry.) 155.

Section 84—Revision reported to Financial Commissioner—Even if parties, either or both, fail to tour up at the time of hearing revision cannot be dismissed in default—Opportunity provided to be heard is enough, may not be availed—Case has to be decided on merits, on facts available on record—It is in the interest of justice and fairplay to review the order of dismissal in default and accept the reference by the Commissioner—Order of Collector, by which surplus area case was decided is upheld.; *Babu Ram v. State of Punjab*: 1999(2) ALL INDIA LAND LAWS REPORTER (FC, Pb.) 423

Section:- 85

Section 84—Civil Procedure Code, 1908—Section 115—Pepsu Tenancy and Agricultural Lands Act, 1955—Section 39(3)—Punjab Tenancy Act, 1887—Section 84—Tenant was ordered to be evicted when he failed to deposit rent plus costs within time stipulated, short by Rs. 174/—F.C. allowed the short amount to be deposited—Jurisdiction of F.C. to revise the orders is challenged—Conjoint reading of Section 39(3) Land Act and Section 84(5) of Tenancy Act make it clear that even in the absence of an appeal filed, F.C. can exercise his suo motu powers of revision—No ground warranting interference with impugned orders.; **Charan Dass v. Financial Commissioner, Haryana : 1998(2) ALL INDIA LAND LAWS REPORTER (P&H) 522**

Section 84—It was in 1983 that surplus land of big landowner vested in the state—Great Grandsons of the landlord have challenge the validity of surplus area—They have also managed an entry in the mutation as mortgagors and some party as mortgagees—Mortgagors were never vested with any rights to mortgage transaction, petitioners have been able to keep possession of the land—Land deserves to be treated as vested in Government—Case referred back to local revenue authority to utilise the surplus area as free from all encumbrances and update the Revenue Records—Punjab Land Reforms Act, 1971—Section 18.; **Amarjit Singh v. State of Punjab : 1998(1) ALL INDIA LAND LAWS REPORTER (FC, Pb.) 14**

—**S. 84**—Before the F.C., petitioner has himself demolished his plea of adverse possession for over 20 years and has accepted the factum of tenancy under the Education Society on 1/3 batai through a third person who was never in possession—In the revision, which scope is very limited the petitioner has to prove miscarriage of justice either because of wrong, exercise of power or Revenue Officers having grossly misunderstood the facts—Petitioners denial of relationship of tenant and landlord never succeeded—Revision disposed of by the Commissioner by a one-line non-speaking order is distressing—Revision devoid of merit, is dismissed; **1996(1) ALL INDIA LAND LAWS REPORTER 472.**

Procedure

85. Procedure of revenue officers: - (1) The [State] (Subs. for the words "Provincial" by the Adaptation of Laws Order, 1950) Government may make rules (For rules under Section 35(1) see notification No. 77, Punjab Gazette, Extraordinary 1st March, 1888, page 79.) consistent with this Act for regulating the procedure of Revenue Officers under this Act in case in which a procedure is not prescribed by this Act.

(2) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue Officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery or possession of such property.

Sections:- 86 - 88

(3) The rules may also provide for the mode of executing orders as to costs, and may adopt to proceedings under this Act all or any of the provisions of the Punjab Land Revenue Act, 1887, (VII of 1887), with respect to arbitration.

(4) Subject to the rules under this section, a Revenue Officer may refer any case which he is empowered to dispose of under this Act to another Revenue Officer for investigation and report, and may decide the case upon the report.

86. Persons by whom appearances may be made before revenue-officers as such and not as revenue courts.— (1) Appearances before a Revenue Officer as such, and applications to and acts to be done before him, under this Act may be made or done—

- (a) by the parties themselves, or
- (b) by their recognized agents or a legal practitioner.

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

(2) For the purposes of sub-section (1), recognised agents shall be such persons as the [State] (Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950) Government may by notification declare in this behalf.

(3) The fees of legal practitioner shall not be allowed as cost in any proceedings before a Revenue Officer under this Act, unless that officer considers, for reasons to be recorded by him in writing that the fees should be allowed.

87. Costs.— (1) A Revenue Officer may give and apportion the costs of any proceedings under this Act in any manner he thinks fit.

(2) But if the orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

88. Procedure of revenue courts.— (1) The [State] (Sub. for the words "Provincial" by the Adaptation of Laws Order 1950) Government may (For rules see, Punjab Gazette, 1902, Part I; page 845) [—] (See now the Code of Civil Procedure, 1908 (Act 5 of 1908) make rules consistent with this Act for regulating the procedure of Revenue Court in matters under this Act for which a procedure is not prescribed thereby, and may by any such rule direct that any provisions of the Code of Civil

Sections:- 89 - 90

Procedure shall apply. (The words "with the previous sanction of the Governor-General in Council" were repealed, by the Decentralization Act, 4 of 1914) with or without modification, to all or any classes of cases before those Courts.

(2) Until rules are made under sub-section (1), and subject to those rules when made and to the provisions of the Act,-

(a) the Code of Civil Procedure shall, so far as it is applicable, apply to all proceedings in Revenue Courts whether before or after decree; and

(b) the Financial Commissioner shall, in respect of those proceeding be deemed to be the High Court within the meaning of that Code, and shall, subject to the provisions of this Act, exercise, as regards the Courts under his control, all the powers of a High Court under the Code.

89. Power of revenue officers or revenue courts to summon persons.- (1) A Revenue Officer or Revenue Court may summon any persons whose attendance he or it considers necessary for the purpose of any application suit or other business before him or it as a Revenue Officer or Revenue Court.

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or if the summons so allows, by his recognized agent or a legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements and to produce such documents and other things relating to any such matter as the Revenue Officer or Revenue Court may require.

90. Mode of service of summons.- (1) A summons issued by a Revenue Officer or Revenue Court, if practicable, be served (a) personally on the person to whom it is addressed, or failing him on (b) his recognized agent on (c) an adult male member of his family who is 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 posting a copy thereof at 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 is employed or the Revenue Court is held and the case to which the summons relates has reference 10 land in that district then by pasting a copy of the summons on some conspicuous place in or near the as late wherein the land is situate.

Sections:- 91 - 93

(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 or Revenue Court so directs, be served by delivery of a copy thereof to such of those persons as the Officer or Court nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(4) A summons may if the Revenue Officer or Revenue Court so directs be served on the persons 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, 1886, (See now the Indian Post Office Act, 1896 (6 of 1898) (XIV of 1866).

(5) 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 Officer or Court may presume that the summons was served at the time when the letter would be delivered in the ordinary course of posts.

Case Law

Section 90—Punjab Security of Land Tenures Act, 1953—Punjab Security of Land Tenures Rules, 1956, Rules 6(7)—Declaration of surplus area—Failure to served notice—Whether a transferee could claim a right to include his land in the permissible area of the Vendor/big landowner? A transferee from a big land-owner before the surplus area case is concluded is mandatorily required to be served with a notice. ; **Smt. Ranjeet Kaur v. State of Haryana : 2006(1) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 211**

91. Mode of service of notice, order of proclamation or copy thereof.- A notice, order or proclamation, or copy of any such document issued by a Revenue Officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

92. Additional mode of publishing proclamation.- When a proclamation relating to any land is issued by a Revenue Officer or Revenue Court, it shall, in addition to any other mode of application which may be prescribed by any ejectment for the time being in force, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

93. Joinder of tenants as parties to proceedings relating to rent.— (1) Any number of tenants cultivating in the same estate may, in the direction of the Revenue Officer or Revenue Court and subject to any rules, which the [State] (Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950) Government may make in this behalf, be made parties to any proceeding under Chapter III.

Sections:- 94 - 97

(2) But a decree or order shall not be made in any such proceeding unless the Revenue Officer or Revenue Court is satisfied that all the parties thereto have had an opportunity of appearing and being heard.

(3) A decree or order made in any such proceedings shall specify the extent to which each of the tenants is affected thereby.

94. Exception of suits under this act from operation of certain enactment.- Nothing in section 424 of the (See now the Code of Civil Procedure, 1908, Act 5 of 1908) Code of Civil Procedure XIV of 1882 or in Section 6 of the (See Now the Punjab Municipal Act) (Act 3 of 1911) Punjab Municipal Act, 1884, (XIII of 1884) shall be construed to apply to a suit of a class mentioned in section 77 of this Act.

95. Payment into court of money admitted to be due to a third person.- When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person, the Court shall, except for special reasons to be recorded by it, refuse to take cognizance of the plea unless the defendant pays into Court the amount to admitted to be due.

(2) Where such a payment is made the Court shall forthwith cause notice of the payment to be served on third person.

(3) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment of the money, it shall be paid to the plaintiff on his application to the Court therefor.

(4) Nothing in this section shall effect the right of any person to recover from the plaintiff money paid to him under sub-section (3).

(5) When a defendant pays money into Court under this section, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person or the case may be.

96. Execution of decree or arrears of rent.- A court passing a decree for an arrear of rent may, on the oral application of the decree-holder, order execution thereof against the movable property of the tenant, against any uncut or ungathered crops on the tenancy in respect of which the arrear is decreed.

97. Prohibition of imprisonment of tenants in execution of decrees for rent.- A tenant shall not, during the continuance of his occupancy, be liable to imprisonment on the application of his landlord in execution of a decree for an arrears of rent.

Sections:- 98 - 100

98. Power to refer party to civil court.- (1) If, in any proceeding pending before Revenue Court exercising original, appellate or revisional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Court, if any, to the control of which it is immediately subject, require, by order in writing, any party to the proceeding to institute, within such time as it may fix in this behalf, a suit in the Civil Court for the purpose of obtaining a decision on the question and, if he fails to comply with the requisition, may decide the question as it thinks fit.

(2) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceeding pending before it in accordance with the final decision of the Civil Court of first instance or appeal, as the case may be.

99. Power to refer to high court questions as to jurisdiction.- (1) If the Presiding Officer of a Civil or Revenue Court in which a suit has been instituted doubts whether he is precluded from taking cognizance of the suit, he may refer the matter through the [District Judge] or Commissioner, or if he is a [District Judge] (Subs. for "Divisional Judge" by the Punjab Courts Act, 1918 (6 of 1911) Section 49) or Commissioner directly to the [High Court] (Subs. for the word "Chief Court" by Act 18 of 1919).

(2) On any such reference being made, the [High Court] (Subs. for word "Chief Court" by Act 18 of 1919) may order the Presiding Officer either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

(3) The order of the [High Court] (Subs. for the word "Chief Court" by Act 18 of 1919) on any such reference shall be conclusive as against persons who are not parties to the suit as well as against persons who are parties thereto.

100. Power of high court to validate proceedings held under mistake as to jurisdiction.- In either of the following cases, namely: -

(a) if it appears to a Civil Court that a Court under its control has determined a suit or, a class mentioned in Section 77 which under the provisions of that section should have been heard and determined by a Revenue Court or

(b) if it appears to a Revenue Court that a Court under its control has determined a suit which should have been heard by a Civil Court, the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the [High Court]

Sections:- 101 - 102

(2) If on perusal of the record it appears to the " " was so determined in good faith
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Sections:- 103 - 105

(2) A proceeding had before a Revenue Officer or Revenue Court on a day specified in the list as a day to be observed by the Officer or Court as a holiday shall not be invalid by reason only of its having been had on that day.

103. Discharge of duties of collector dying or being disabled.—
When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the [State] Government on this behalf, shall be deemed to be a Collector under this Act.

104. Retention of powers by revenue officer on transfer.— When a Revenue Officer of any class who, either as such or as a Revenue Court, has under the foregoing provisions of this Act any powers to be exercised in any local area is transferred from that local area to another as a Revenue Officer or Revenue Court of the same or a higher class, he shall continue to exercise those powers in that other local area, unless the [State] (Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950) Government otherwise directs or has otherwise directed.

105. Conferment of powers of revenue officer or revenue court.—
The [State] (Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950) Government may by notification confer on any person— (For Notification see Punjab Govt. Gazette, 1908, Part 1 page 928.)

(a) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act, or

(b) all or any of the powers with which an Assistant Collector of either grade is, or may be, invested thereunder;

and may be notification withdraw any powers so conferred.

all exercise those powers within such local limits and in such classes of cases as the [State] (Subs. for the word "Provincial" by the Adaptation of Order, 1950) Government, may direct, and, except as otherwise directed by the [State] (Subs. for the word "Provincial" by the Adaptation of Order, 1950) Government, shall for all purposes connected with the exercise thereof be deemed a Financial Commissioner, Commissioner, Director or Assistant Collector, as the case may be.

Before conferring powers on the Judge of a Civil Court under sub-section (1), the [State] (Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950) Government shall consult the [High, Court] (Subs. for the words "Chief Court" by Act 18 of 1918).

Sections:- 101 - 102

(2) If on perusal of the record it appears to the [High Court] that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the [High Court] may order that the decree be registered in the Court which had jurisdiction.

(3) If it appears to the [High Court] otherwise than on submission of a record under sub-section (1), that a Civil Court under its control has determined a suit of a class mentioned in Section 77 which under the provisions of that section should have been heard and determined by a Revenue Court the [High Court] (Subs. for the words "Chief Court" by Act 18 of 1919) may pass any order which it might have passed if the record had been submitted to it under that sub-section.

(4) With respect to any proceeding subsequent to decree, the [High Court] (Subs. for the words "Chief Court" by Act 18 of 1919) may make such order for its registration in, a Revenue Court or Civil Court as in the circumstances appear to be just and proper.

(5) An order of the [High Court] under this section shall be conclusive as against persons who were not parties to the suit or proceeding as well as against persons who were parties thereto and the decree or proceeding to which the order relates shall have effect as if it had been made or had by the Court in which the order has required it to be registered.

(6) The provisions of this section shall apply to any suit instituted on or after the first day of November, 1884, and to proceeding arising out of any such suit.

Miscellaneous

101. Place of sitting.— (1) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed.

(2) Any other Revenue Officer or Revenue Court may only exercise his or its powers under this Act within the local limits of his or its jurisdiction.

102. Holidays.— (1) The Financial Commissioner, with the approval of the [State] (Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950) Government, shall publish in the [Official Gazette] (Subs. for the words "Local Official Gazette" by the Government of India (Adaptation of Indian Laws) Order 1937) before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue Officers and Revenue Courts.

Sections:- 103 - 105

PUNJAB GOVT. GAZ. (EXTRA), MARCH 1, 2019
(PHGN 10, 1940 SAKA)

PART III

GOVERNMENT OF PUNJAB

DEPARTMENT OF REVENUE, REHABILITATION AND
DISASTER MANAGEMENT
(AGRARIAN REFORMS BRANCH)

NOTIFICATION

The 27th February, 2019

No. S.O.17/P.A.16/1887/S.105/P.A.17/1887/S.10/2019.- In Supersession of the Government of Punjab, Department of Revenue, Rehabilitation (Agrarian Reforms Branch), Notification No. S.O.16/P.A.16/1887/S.105/2009, dated the 9th April, 2009, and in exercise of the powers conferred by section 105 of the Punjab Tenancy Act, 1887 (Punjab Act No. 16 of 1887) read with section 10 of the Punjab Land Revenue Act, 1887 (Punjab Act XVII of 1887), and all other powers enabling him in this behalf, the Governor of Punjab is pleased to confer the powers of the Assistant Collector 1st Grade upon all the District Revenue Officers in the State of Punjab, which shall be exercised by them within their respective jurisdiction, to decide the cases instituted under sub-section (3) of section 77 of the aforesaid Punjab Tenancy Act, 1887, before or after the publication of this notification, by the Non-Resident Indians; serving members of the Armed Forces of the Union of India and the serving members of the Central Police Armed Forces, or by their co-sharers or family members, as the case may be.

KALPANA MITTAL BARUAH,
Additional Chief Secretary to
Government of Punjab, Department of
Revenue, Rehabilitation and
Disaster Management.

1721/3-2019/Pb. Govt. Press, S.A.S. Nagar

(3) If it appears to the [High Court] otherwise than on submission of a record under sub-section (1), the [State] (Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950) Government shall consult the [High Court] (Subs. for the words "Chief Court" by Act 18 of 1918).

Section:- 106

(4) If any of the powers of a Collector under Section 78 and 79, Section 80 or Section 82 are conferred on an Assistant Collector, they shall, unless the [State] (Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950) Government by special order otherwise direct be exercised by him subject to the control of the Collector.

106. Power for financial commissioner to make rules.- (1) The Financial Commissioner, may in addition to the other rules which may be made by him under this Act, makes rules consistent with this Act and any other enactment for the time being in force,-

(a) determining notwithstanding anything in any record-of-rights, the number and amount of the instalments and times by and at which rent is to be paid;

(b) for the guidance of Revenue Officers is determining for the purposes of this Act, the amount of the land revenue of any land;

(c) prescribing, for all or any of the territories to which this Act extends, the periods during which, in proceedings held under this Act, a Revenue Officer or Revenue Court is not, except for reasons of urgency to be recorded, to issue any process of arrest against a tenant or against a landowner who cultivates his own land;

(d) regulating the procedure in cases where persons are entitled to inspect records of Revenue Offices or Revenue Courts, or to obtain copies of the same and prescribing the fees payable for searches and copies;

(e) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in Revenue Offices or Revenue Courts or submitted to any authority;

(f) declaring what shall be the language of any of those offices and Courts, and determining in what cases persons practising in those offices and Courts shall be permitted to address the Presiding Officers thereof in English and.

(g) generally for the guidance of Revenue Officers and other persons in matters connected with the enforcement of this Act.

(2) Until rules are made under clause (a) of sub-section (1), rent shall be payable by the instalments and at the times by and at which it is now payable.

Sections:- 106(A) - 109

(3) Rules made by the Financial Commissioner under this or any other section of this Act shall [be made subject to the control of] (Subs. for the words, "shall not take effect until they have been sanctioned by" by the decentralization Act, 1914 (4 of 1914) the [State] (Subs. for word "Provincial" by the Adaptation of Laws Order, 1950) Government.

Punjab Amendment

106-A. Licencing of petition writers in revenue courts and revenue officers.— (1) No person shall practise as a petition writer in any Revenue Court or Revenue Office, unless he has been licensed under rules made under this Act (Ins. by Punjab Act 18 of 1969. Section 2)

(2) A person who contravenes the provisions of sub-section (1) shall be liable to the prescribed penalty which shall not exceed fifty rupees in any case.

(3) The Financial Commissioner may, from time to time, make rules (consistent with this Act and other enactments) for the time being in force:

(i) declaring what persons shall be permitted to act as petition writers in the Revenue Courts and Revenue Offices;

(ii) regulating the issue, suspension and revocation of licences to such persons, the fees payable for the issue of licences, the conduct of business by them and the scale of fees to be charged by them; and

(iii) providing for the penalty that may be imposed under sub-section (2), the authority who shall be competent to impose penalty under that sub-section and the authority to whom an appeal against an order of refusal to issue a licence or suspension or revocation of licence or imposition of penalty shall lie.]

107. Rules to be made after previous publication.-The power to make any rules under this Act is subject [—] (The words "to the control of the Governor General-in-Council and" were repealed by the Devolution Act 38 of 1920 Section 2 Schedule I) to the condition of the rules being made after previous publication.

108. Powers exercisable by financial commissioner.- All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

CHAPTER - VIII : Effect of this Act on Records-of-Rights and Agreements

109. Nullity of certain entries of records-of-rights.— An entry in any record-of-Rights providing—

Sections:- 110 - 111

(a) that a landlord may prevent a tenant from making, or eject him for making, such improvements on his tenancy as he is entitled to make under this Act, or

(b) that a tenant ejected from his tenancy shall not be entitled to compensation for improvements or for disturbance in any case in which he would under this Act be entitled to compensation therefore, or

(c) that a landlord may eject a tenant otherwise than in accordance with the provisions of this Act, shall be void to that extent.

110. Nullity of certain agreements contrary to the act.— (1) Nothing in any agreement made between a landlord and a tenant after the passing of this Act shall—

(a) override any of the provisions of this Act with respect to the acquisition of a right of occupancy, or the reduction remission or suspension of rent or the enhancement of the rent of a tenant having a right of occupancy under Section 5 or Section 6, or

(b) take away or limit the right of a tenant as determined by this Act to make improvements and claim compensation therefore, or, where compensation for disturbance can be claimed under this Act, to claim such compensation, or

(c) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.

(2) Nothing in clause (a) of sub-section (1) shall apply to an agreement by which a tenant binds himself to pay an enhanced rent in consideration of an improvement which has been, or is to be, made in respect of his tenancy by or at the expense of, his landlord, and to the benefit of which the tenant is not otherwise entitled.

111. Saving of other agreements when in writing or has been recorded in a Record-of-rights.— Save as expressly provided in this Act, nothing in this Act shall affect the operation of any agreement between a landlord and a tenant, when the agreement either is in writing, or has been recorded in a record-of-rights before the passing of the Punjab Land Revenue Act, 1887 (XVII of 1887) or been entered by order of a Revenue Officer in a record-of-rights or annual record under the provisions of the Act.

Section:- 112 & SCHEDULE

112. Effect of certain entries made in Records-of-rights before November, 1871.— An entry made with respect to any of the following matters before the eighteenth day of November, 1871, and attested by the proper officer in the record of a regular settlement sanctioned by the [State] Government, namely:—

(a) enhancement or abatement of the rent of a tenant having a right of occupancy, or the commutation of rent in kind into rent in money or of rent in money into rent in kind or the taking of rent in kind by division or appraisal of the produce or other procedure of a like nature, or

(b) the letting or under-letting of land in which there is a right of occupancy by the tenant having that right or the alienation of or succession to land in which such a right, subsists shall be deemed to be an agreement within the meaning of the last foregoing section.

THE SCHEDULE

Repealed by the Repealing and Amending Act, 1891 (XII of 1891)

S. 2(1) and first Schedule.

THE **PUNJAB TENANCY** **RULES, 1909**

[Published,—vide Financial Commissioner's notifications Nos. 78 and 79 of Punjab Gazette (Extraordinary), dated 1st March, 1881, pages 91 and 66 respectively]

Limitation of Jurisdiction- of Assistant Collector of the 2nd Grade

1. [(i) **Limitation of powers of Naib-Tahsildars.**— A Naib-Tahsildar invested with the powers of an Assistant Collector of the 2nd grade shall not hear and determine a suit of any description mentioned in the 3rd group of sub-section (3) of Section 77 in which the rent or sum claimed exceeds (Financial Commissioner's notification No. 145, dated 18th November, 1909) Rs. [500] (Sub. by Financial Commissioner's notification No. 8583-E-53/5464, dated 21st September, 1953) in amount.

(ii) **Limitation of powers of other Assistant Collectors of 2nd grade.**— Other Assistant Collectors of the 2nd grade shall not hear and determine a suit of any description mentioned in the 3rd group of sub-section (3) of Section 77 in which the rent or sum claimed exceeds Rs. [1,000] (Subs. by *ibid*) in amount].

Procedure of Revenue Officers (Punjab Government notification No. 77, dated 1st March, 1888)

2. (i) **Statements and pleadings to be brief.**— The statements and pleadings made by or on behalf of parties to a revenue proceedings, whether oral or written, shall be as brief as the nature of the case admits; and shall not be argumentative but shall be confined as such as possible to a simple and concise narrative of the facts which the party by whom or on whose behalf the statement or pleading is made believes to be material to the case, and which he either admits or believes that he will be able to prove.

(ii) **Verification of applications.**— Every written application of statement filed by a party to a revenue proceeding shall be drawn up and verified in the manner provided by the Civil Procedure Code for written statements in suits.

Rules:- 3 - 9

3. **Proceeding not to abate on death or marriage of party.**— The death of one of the parties to a revenue proceeding, or in a proceeding to which a female is a party, for marriage shall not cause the proceeding to abate. And the revenue officer before whom the proceeding is held shall have power to make the successor-in-interest of the deceased person or of the married female a party thereto.

4. **In fixing dates, etc., Revenue Officer to follow procedure of Revenue Court Commission.**— In fixing dates for the hearing of parties and their witness in adjourning proceedings, and in dismissing applications on default or for other sufficient reason, a Revenue Officer will so far as the nature of the case may require' or permit, be guided generally by the principles of the procedure for the time being in force in revenue courts.

5. The provisions of Sections 75-78 of the Civil Procedure Code and of Schedule I, Order XXVI, annexed to the said Code in respect of commissions shall apply in the case of proceedings before a revenue officer.

6. **Expenses of witnesses.**— (i) A revenue officer may at his discretion award to a witness attending on summons a sum on account of his expenses not exceeding the sum to which the witness would have been entitled for a like attendance in a civil Court.

(ii) The sum so awarded shall be costs in the proceeding.

7. **Record of other proceedings under Tenancy Act.**— In proceedings before a revenue officer under the Punjab Tenancy Act, 1887, the revenue officer shall make with his own hand a brief memorandum of the statements of parties and witnesses at the time when each statement is made.

8. **Contents of orders.**— In every proceeding in which an order is passed on the merits after inquiry, the revenue officer making the order shall also record a brief statement of the reasons on which it is founded.

9. **Appointment and recovery of costs.**— (i) In proceedings in which costs have been incurred the final order shall apportion the costs of between the parties to the proceeding.

(ii) Costs thus apportioned shall be recoverable by the revenue officer by attachment and sale of the movable property of the person liable for the same in the manner prescribed in Section 70 of the Land Revenue Act.

Rules:- 10 - 14

10. **Execution of order of ejectment, etc.**— (i) Order of ejectment from, and delivery of possession of immovable property shall be enforced in the manner provided in the Code of Civil Procedure for the time being in force in respect of the execution of a decree whereby a Civil Court has adjudged ejectment from, or delivery of, possession of such property.

(ii) And in the enforcing of these orders a revenue officer shall have all the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree of the description mentioned in sub-section (1).

11. **Arbitration.**— The provisions of the Punjab Land Revenue Act, 1887, with respect to arbitration shall apply to proceedings before a revenue officer in respect of any matter described in the 1st and 2nd groups of Section 76 of the Punjab Tenancy Act, 1887.

Language of Revenue Offices and Courts

12. **Language of Revenue Courts and Offices.**— The Languages of revenue offices and courts before district level shall be Hindi in Devnagri Script in Hindi Region and Punjabi in Gurmukhiscript in the Punjabi Region; and (As amended by Financial Commissioner's notification No. 145, dated 13th November, 1909, and substituted for rules 12 and 13 by Financial Commissioner's notification No A R.I (IV)-61/3667, dated 30th Oct, 1961 and Rule 12 so substituted has further been substituted by Punjab Government Notification No. GSR 193/PA 16/87/5106/62, dated the 28th September, 1962). English and Urdu in Chandigarh Capital.

[FOR HARYANA ONLY]

Provided that the order, on judgment against which an appeal or revision lies under the law for the time being in force, may be written by the Presiding Officer in English.

Explanation.— The expression 'Hindi Region' and 'Punjabi Region' shall have the meaning assigned to them in the Punjab Regional Committees Order, 1957.

(Financial Commissioner's Notification No. 145 D1, 13th November, 1909) **[Processes and Notices issued under the Tenancy Act]**

13. **Repealed.**

14. **Processes of arrest not to be issued between certain dates.**— A revenue officer or revenue court shall not, except for reasons of urgency, to be recorded, issued any process of arrest against a tenant or against landowner who cultivates his own land between the 1st day of April, and the 31st day of May, or between the 15th day of September and 15th day of November.

Rules:- 15 - 16

15. **Contents of application for issue of notices of ejectment etc.**—

(a) Every application for the issue of a notice of relinquishment, or of intended transfer of a tenancy, or for the issue of notice of ejectment from a tenancy, shall be accompanied by a true copy of the entries in the last detailed janiabandi relating to the Khata Khatauni in which the fields to which the application relates are included.

(b) Where, however, such copy would be irrelevant owing to changes in tenancy subsequent to the date of preparation of the jamabandi, true copies of the entries in the last khassra girdawari relating to the particular fields to which the application relates shall be substituted, therefor,

Copies filed under (a) or (b) shall be certified as correct under his own signature by the Patwari or any other official acting under section 76 of the Evidence Act, I of 1872, or Section 151(2) of the Punjab Land Revenue Act, XVII of 1887.

(Pleaders and Mukhtars) [Financial Commissioner's Noti. No. 145. dt. 13th November, 1909]

16. **Appearances of Pleaders and Mukhtars in proceedings before the Financial Commissioner.**— Whereas by Schedule I, Order III, clause 4(1), annexed to the Code of Civil Procedure every Pleader is required to be appointed by an instrument in writing, and by Punjab Government notifications Nos. 728 and 729, dated 1st November, 1887, every certificated Mukhtar is required to hold a special power-of-attorney, and no such Pleader or Mukhtar can be recognised, in the absence of a written authority as aforesaid, is empowered to appear, plead, or act for any person in any proceeding governed by the Punjab Tenancy Act, XVI of 1887, and the Land Revenue Act, XVII of 1887, and it is expedient to provide for ascertaining that every such Pleader or Mukhtar is duly authorised to appear, plead, or act in any such proceeding before the Financial Commissioner, the following rules are made by the Financial Commissioner:

(a) **Contents of appointments.**— Every appointment of a Pleader and every power-of-attorney to a certified Mukhtar presented to the court shall contain in full the name of the person or Pleader or Mukhtar to appear or act on his behalf and shall be executed by every such person.

(b) **Proof of agent's power to act on behalf of his Principal.**— When such 'appointment or power is not executed by the Principal himself but by some person claiming to appoint or give authority on

Rules:- 17 - 18

his behalf, the Pleader or Mukhtar will not be recognised by the court without proof that such person was duly authorised by the Principal to execute such appointment or power.

[Applications for Revision] (Financial Commissioner's Notification No. 145, dated 13th November, 1909)

17. **Contents of applications for revision.**— (1) An application that the Financial Commissioner should exercise the powers conferred by Section 84 of the Punjab Tenancy Act, 1887, drawn or supported by an Advocate or Pleader or by a Revenue Agent admitted to practise in the Financial Commissioner's Court, shall specify the particular ground on which the aid of the Financial Commissioner's Court is invoked.

(a) If the ground be that the court which decided the case exercises a jurisdiction not vested in it by law, the application shall set out clearly the particular exercise of jurisdiction complained of;

(b) If it be that the court which decided the case failed to exercise a jurisdiction so vested the jurisdiction which ought in the applicant's opinion, to have, but has not, been exercised, shall be clearly set out;

(c) If it be that the court acted in the exercise of its jurisdiction with material irregularity the particular irregularity or irregularities complained of shall be similarly set out.

(ii) The clerk of court is hereby authorized to return for amendment, within a time to be specified in an order to be recorded by him on the application, any application, not drawn up in conformity with the foregoing directions.

18. A tenant exempted from production of certified copies of revenue records in suits instituted by him under the pre-existing rule 88 inserted by Punjab Government Notification No. 8722. R-53/3-Spl., dated 31st December, 1953, shall be similarly exempted from producing such certified copies in appeals, applications for review or revisions filed or to be filed by him from orders or decrees passed in such suits. Such copies may be obtained by the Court concerned itself. **[Substituted by Punjab Government Notification No 2439-R-55/1988 dated the 6th July, 1955.]**

THE PUNJAB PETITION WRITERS (REVENUE) RULES, 1982

[Published in Punjab Govt. Gaz. July 23, 1982 at page 621]

Notification

The 15th July, 1982

No. G.S.R. 98/P.A. 16/87/S. 106-A/82: - With reference to Government of Punjab, Department of Revenue notification No. G.S. 56/P.A. 16/1887/S. 106-A/82, dated the 6th May, 1982 and in exercise of the powers conferred by sub-section (3) of section 106-A of the Punjab Tenancy Act, 1887, and all other powers enabling him in this behalf, the Financial Commissioner, Revenue Punjab is pleased to make the following rules namely: -

1. **Short title and commencement:** - (1) These rules may be called the Punjab Petition Writers (Revenue) Rules, 1982.

(2) They shall come into force at once.

2. **Definitions:** - In these rules, unless the context otherwise requires, -

(a) 'petition-writer' means a person who writes petitions while practising in a Revenue Court of Revenue Office for the purpose of presenting same to the Revenue Court or Revenue Office;

(b) 'petition' means a document written for the purpose of being presented to a Revenue Court or a Revenue Officer and includes a plaint and memorandum of appeal;

(c) 'to practise as a petition writer' means to write petitions for hire, and includes the writing of a single petition for hire;

(d) 'Form' means a Form appended to these rules;

(e) 'licensee' means a petition writer to whom a license has been granted or renewed under these rules;

(f) 'Revenue Officer' means the office of a Revenue Officer;

(g) 'recognised agent' means a person who performs the functions of a recognised agent as described in Order III Rule 2 of the Civil Procedure Code.

Rules:- 3 - 7

3. **Prohibition to Practice as Petition writer without licence:** - No person shall, after the expiry of a period of thirty days from the commencement of these rules, practice as a petition writer in a Revenue Court or Revenue Office except under and in accordance with the provisions of these rules and the terms and conditions of a licence granted under these rules:

Provided that an Advocate, a Pleader or recognised agent shall not for the purpose of writing petitions for being presented to Revenue Court or a Revenue Office shall be required to have a licence under these rules.

4. **Prohibition to receive petitions:** - No petition shall be received by a Revenue Court or by a Revenue Officer, unless it is written by the person concerned or his recognised agent, or by a legal practitioner or by a petition writer.

5. **Number of petition writers:** - The Commissioner of a Division shall fix the maximum number of persons, who can practice as petitionwriters at the headquarters of a sub-district, Sub-Division or a District.

6. **Licensing Authority:** - The Collector of a district shall be the Licensing Authority within his jurisdiction under these rules.

7. **Eligibility for grant of licence:** - No person shall be eligible for grant of a licence as a petition writer under these rules, if he—

(i) has not passed the Matriculation Examination with Punjabi language in Gurmukhi script as one of the subjects or Higher Secondary Examination or any other examination of an equivalent standard;

(ii) does not possess good character and good conduct;

(iii) has not good handwriting to the satisfaction of the Licensing Authority;

(iv) is less than eighteen years of age;

(v) is in the employment of the Government or an local authority or any legal practitioner;

(vi) is not of sound mind;

(vii) has been dismissed from the service of Government or of any local authority; and

(viii) has been convicted of any offence involving moral turpitude;

Rules:- 8 - 12

Provided that a person who has been granted licence under rules framed by the High Court under section 46-A of the Punjab Courts Act, 1918 immediately before the commencement of these rules, shall be granted a licence under these rules on payment of the fee specified in rule 9 without taking into consideration the above matters.

8. **Application for licence:** - Every person desiring to obtain a licence under these rules shall make an application to the Licensing Authority in Form 'A' together with proof of fee as specified in rule 9 having been paid in the manner indicated in that rule.

9. **Fees:** - (1) The fees for grant and for renewal of a licence shall be ten rupees and five rupees respectively.

(2) The fees specified in sub-rule (1) shall be deposited either in the Bank through Treasury Challans or be paid by means of Court fee stamps.

10. **Grant of refusal of a licence:** - (1) On receipt of an application for the grant of licence, the Licensing Authority may, after taking into consideration the matters referred to in rule 7, either grant or refuse a licence.

(2) Where the application for a licence is refused, the reasons for such refusal shall be recorded in writing and conveyed to the applicant and the fees paid by the applicant along with the application shall be refunded to him.

(3) Where the application for a licence is not refused, the Licensing Authority shall grant the applicant a licence in Form 'B'.

11. **Period of validity of licence:** - Every licence granted under rule 10, shall, unless suspended or cancelled earlier be valid upto the 31st day of December of the calendar year in which it is granted, and may thereafter be removed for a further period of one year at a time.

12. **Renewal of licence:** - (1) Every licensee desiring to get his licence renewed, shall, before the date of expiry of the licence, make an application for renewal to the Licensing Authority in Form 'C' together with the proof of fee specified for renewal in rule 9 having been paid in the manner indicated in that rule.

(2) Where the application for renewal is made within the time specified in sub-rule (1), the applicant shall, for the purposes of these rules, be deemed to be a licensee even during the period the application remains pending with the Licensing Authority.

Rules:- 13 - 16

[(3) If the application for renewal is not made within the period of three months from the date of expiry of the licence, a penalty of rupees two for each month or part thereof for delay shall be charge.] [Substituted vide P.G. Notification No. G.S.R. 33/PA/16/1887/S. 106-A/Amd(I)/96 dated 2.4.1996.]

13. **Licence lost or damaged:** - (1) If the licence of a petition writer granted to him under rules is lost or damaged, he may apply to the Licensing Authority for a duplicate licence.

(2) The application for a duplicate licence shall be made in writing and shall be presented by the applicant in person. The Licensing Authority, if satisfied that the previous licence has been lost or damaged, shall, on payment by the applicant a fee of five rupees, cause a fresh licence to be issued in the same form and bearing the same date as the lost or damaged licence, and shall cause the word 'duplicate licence' to be enfaced thereon with the date of issue, and shall sign such enforcement.

14. **Conditions on which licence remains in force:** - A licence granted to a petition-writer under these rules authorises him to practise as a petition-writer, subject to these rules, according to its tenure and it continues in force until—

(i) its operation is suspended or cancelled by an order made under rule 26 or the petition-writer enters the service of Government, Local Authority or of a legal practitioner; or

(ii) the petitioner-writer is debarred from practising as petition-writer.

15. **Shifting of place of business by the licensee:** - No licensed petition writer shall shift his place of business except by permission, —

(i) of the Collector of the district concerned from one Sub-Division to another sub-Division in the same District.

(ii) of the Commissioner of the division concerned from one district to another district within the same Division; and

(iii) of the Financial Commissioner, Revenue, Punjab, from one Division to another Division.

16. **Manner of writing petition by a licensed petition-writer:** - Every licensed petition-writer in writing a petition shall confine himself to expression in plain and simple language, such as the petitioner can understand, and in concise and proper form the statements and objects of the petitioner shall be referred therein and shall not introduce any argument or quotation from a Law Report or other Law Book, or refer to any decision not brought to his notice by the petitioner.

Rules:- 17 - 24

17. **Seal:** - Every licensed petition-writer shall at his own expense provide himself with a seal, engraved with his name, place of business, licence number and year of grant of licence in the official language of the State and two true impressions of the seal shall be got deposited with the Licensing Authority by him by way of record.

18. **Registers of petition-writers to be kept:** - A register in Form 'D' shall be maintained by the Licensing Authority wherein the particulars of all licensed petition-writers of whose licenses have been cancelled for not practicing over a period of three years, shall be entered.

19. **Declaration to be made on the petition:** - Every licensed petition-writer shall record at the foot of every petition written by him, a declaration, under his signatures that, to the best of his knowledge and belief, the petition expressed the true meaning of the petitioner and that its contents have been fully explained to the petitioner.

20. **Petition-writer to sign and seal the petition and make certain endorsements:** - Every licensed petition-writer shall sign and seal with his Official Seal every petition written by him and shall enter on it the number which it bears in the register maintained by him in Form 'E' and the amount of fee which has been charged for writing it.

21. **Employment of other persons to write petitions:** - A licensed petition-writer shall not dictate a petition to or cause a petition to be written by a person who is not a licensed petition-writer nor shall he employ any person who is not a licensed petition-writer to write petitions for him.

22. **Not to act as recognised agent:** - A licensed petition-writer shall not act as recognised agent in any case in Revenue Court or Revenue Office, except in a case in which he is himself a party.

23. **Not to engage in trade or business:** - No licensed petition writer shall engage himself in any other trade or business without the previous permission in writing of the Financial Commissioner, Revenue, Punjab.

24. **Production of licence for inspection:** - (1) Every licensed petition-writer shall, on demand, produce his licence for the inspection of the Licensing Authority or any other Officer authorised by it in this behalf.

(2) If the licensed petition-writer refuses to produce his license at the time of the inspection, the Licensing Authority may, by an order, suspend the licence and on such suspension the petition-writer shall not practise, till the suspension is revoked.

Rules:- 25 - 28

25. **Fee charges for writing petitions:** - (1) No licensed petition-writer shall charge fees for writing petitions in excess of those shown in the Schedule appended to these rules.

(2) A copy of the Schedule referred to in sub-rule (1) shall be exhibited at a conspicuous place at the headquarters of sub-district, every sub-division and district.

(3) A copy of the said Schedule shall also be exhibited conspicuously by each petition-writer at the place where he carries on his business.

(4) The petition-writer shall issue a receipt for the amount of fee charged by him for writing the petition.

26. **Suspension or cancellation of licence:** - The licence of a petition-writer, who—

- (i) writes petitions contrary to these rules;
 - (ii) incorporates objectionable matter in the petition;
 - (iii) uses disrespectful, insulting or abusive language during the course of his business;
 - (iv) is found to be incapable or inefficient of discharging the functions;
 - (v) is declared insolvent by a competent court;
 - (vi) is convicted of criminal offence involving moral turpitude;
 - (vii) charges fees in excess of that specified in the Schedule appended to these rules;
 - (viii) is found unfit to practise as a petition-writer by reason of his fraudulent or improper conduct; or
 - (ix) does not comply with the directions given under these rules;
- shall, in addition to any penalty which may be imposed under these rules, be liable to be suspended or cancelled by the Licensing Authority.

27. **Surrender of licence:** - Every licensed petition-writer—

- (i) whose licence is suspended or cancelled under these rules; or
- (ii) who enters the service of the Government, a local authority or a legal practitioner;

shall forthwith surrender his licence to the licensing Authority.

28. **Rules for practice:** - No licensed petition-writer shall practise—

- (i) contrary to the terms of his licence;

Rules:- 29 - 32

(ii) in any Revenue Court or Revenue Office, in which he has been forbidden to practise;

(iii) after his licence has been or should have been surrendered under these rules; or

(iv) while his licence is suspended or cancelled or he is debarred from practicing in the Revenue Court or Revenue Office.

29. **Order to re-write a petition:** - Any Revenue Court or Revenue Officer may order a licensed petition-writer to re-write any petition which contravenes rule 16 or is illegible, obscure, or prelix or contains any irrelevant matter, or misquotation or is, from any other cause in the opinion of such Court or Officer informal or otherwise, objectionable.

30. **Striking off the name from register:** - The name of the licensed petition-writer, who does not get his license renewed for a continuous period of three years after the expiry of the duration for which it was originally granted or subsequently renewed shall be struck off the register maintained by the Licensing Authority under rule 18:

Provided that the petition-writer whose name has been struck off the register may apply for the grant of a fresh licence in accordance with these rules.

31. **Name of the petition-writer whose licence has been suspended to be posted at a conspicuous place:** - The name of the petition-writer whose licence is suspended or cancelled shall be posted at a conspicuous place of the concerned Revenue Court and Revenue Office.

32. **Order prohibiting practice:** - (1) The Presiding Officer of a Revenue Court or a Revenue Office, may for any sufficient reasons to be recorded, in writing prohibit any petition-writer to practise in his court or office, as the case may be:

Provided that if the order of prohibition is made by an authority lower in rank to the Financial Commissioner, Revenue, Punjab, a reference in this behalf would be made to him for his orders and his orders in the matter shall be final.

(2) Every order of prohibition to practise passed under sub-rule (1) shall be communicated to the concerned Licensing authority who shall endorse the substance and date of the order so passed on the licence under his own signatures.

(3) Any other order, in addition to the orders referred to in sub-rule (1), passed under these rules shall be dealt with in the manner indicated in sub-rule (2).

Rules:- 33- 35 & Forms (A)

33. **Cognizance:** - The Licensing Authority may take cognizance of the breach of these rules either of his own motion or on the report or complaint of the Presiding Officer of the Revenue Court or of the Revenue Office and it may, after such enquiry as is considered necessary by an order impose on the defaulter a penalty of the amount not exceeding fifty rupees:

Provided that no order shall be passed against any person without affording a reasonable opportunity of being heard.

34. **Appeal:** - Any person aggrieved of any order made by the Licensing Authority under rules 10, 24, 26 or 33 may appeal to Financial Commissioner, Revenue, Punjab, whose orders, in this behalf, shall be final.

35. **Review:** - The Financial Commissioner, Revenue, Punjab, may, at any time call for the record of any order passed by the Licensing Authority under these rules and pass such order as he deems fit in this behalf.

FORM - 'A'

(See rule 8)

Application Form for licence

To

The Collector,

Subject: - Application for the grant of a licence to practise as a petition-writer.
Sir,

As I want to practise as a petition-writer in your court/premises. I request that I may be granted a licence for the same in terms of the provisions of the Punjab Petition-Writers (Revenue) Rules, 1982. I fulfil the requisite qualification laid down for the petition-writers in the Punjab Petition Writers (Revenue) Rules, 1982.

My place of business shall be at _____
Yours faithfully,

Copies of the requisite certificates are enclosed:

- 1.
- 2.
- 3.
- 4.
- 5.

Forms :- B - C

FORM - 'B'

(See rule 10)

Form of licence for a petition-writer

In the court of _____
Certified that _____ son of _____
resident of _____ has _____ this day
been licensed as a petition-writer of the _____
and is hereby permitted to practise as such in the manner specified in the Punjab
Petition Writers (Revenue) Rules, 1982 and subject to the provisions of the said
rules till the 31st day of December, 198.

Given under hand and the seal of this court, this _____ day of
_____ 198.

Collector

FORM - 'C'

(See rule 12)

Application Form for Renewal of Licence

To

The Collector,

Subject: - Application for the renewal of licence.

Sir,

The period of one year for the grant/renewal of my licence expires on
_____. I, therefore, request that my licence to practise as a
petition-writer may kindly be renewed for another one year.

I have deposited the requisite fee for renewal of licence in the State Bank
of India on _____ and a copy of the Challan is attached. I have paid
the requisite fee for the renewal of licence by means of court fee stamps (delete
whichever is not applicable).

Yours faithfully,

Date _____

Name _____

Address _____

Licence No. _____

Form :- D

FORM 'D'

(See rule 18)

Register of petition-writers to be maintained by the Collector of the District.

Pages of Register _____

Register No. _____

Name of petition-writer _____

Father's name _____

Residence _____

Date of grant of licence/renewal of licence _____

Authority granting licence _____

Note. 1: - One or more pages to be set apart for each petition-writer.**Note. 2:** - On the rest of page will be entered in chronological order—

(i) the date of and authority for the grant of every duplicate licence under rule 13 of the Punjab Petition-Writers (Revenue) Rules, 1982 (hereinafter referred to as the said rules);

(ii) the date of and authority for every shifting of place of business under rule 15 of the said rules;

(iii) the date of each annual inspection of licence under rule 24 of the said rules;

(iv) the date and nature of every penalty imposed under section 106-A of Punjab Tenancy Act, 1887;

(v) the date and substance of every order passed under the said rules;

(vi) a copy of every endorsement made on the licence; and

(vii) date on which the name of the petition-writer was struck off due to the petition-writer having lefty the practice for over three years as provided under rule 30 of the said rules,

Form:- E & SCHEDULE

FORM 'E'

(See rule 20)

Register to be maintained by every licensed petition-writer

1. Serial No. of petition _____
 2. Date on which petition was written _____
 3. Name, parentage, caste and residence of the person at whose instance the petition was written _____
 4. Description of the petition _____
 5. Brief abstract of contents of the petition _____
 6. Value of court fee labels affixed to the petition _____
 7. Fee charged for writing the petition _____
 8. Remarks _____
- Signature of petition-writer _____
- Signature or thumb-impression of the petitioner _____

SCHEDULE

[Schedule substituted vide P.G. Notification No. G.S.R. 51/PA 16/1887/S. 106A/Amd(2)/98 dated 3.7.1998 Published in Pb. Govt. Gaz. (Extra) L.S. Part III dated 10.7.1998]

(See Rule 25)

Sr. No.	Nature of document	Scale of fee
CATEGORY—I		
1.	Application for copy	Rs. 2.00
2.	Copy of Complaint	2.00
3.	Application for delivery of possession and restoration	2.00
4.	Application for revision of fine	2.00
5.	Application for lambardari	2.00
6.	Application for publicity	2.00
7.	Application for Chaukidari	2.00
8.	Affidavit	2.00
9.	Fard, Talbana and Warrant	2.00
10.	Index of documents	2.00
11.	Form of address of plaintiff/defendant or respondent	2.00

SCHEDULE

12.	List of witnesses	2.00
13.	Receipt of case and property	2.00
14.	Copy of complaint	2.00
15.	Receipt of possession of immoveable property	2.00
16.	Application for permission to dispose of immovable property of minor	2.00
17.	Process fee	2.00

Sr. No. Nature of document Scale of fee

CATEGORY— II

18.	Application for production of witnessless	5.00
19.	Application for stay of execution proceedings	5.00
20.	Application for grant of temporary injunction	5.00
21.	Application for grant of succession certificate or probate or letter of administration	5.00
22.	Application for execution of decree	5.00
23.	Application for final decree	5.00
24.	Application for amendment of decree	5.00
25.	Application under the Insolvency Act	5.00
26.	Application for setting aside ex parte proceedings	5.00
27.	Notice	5.00
28.	Reply of notice	5.00
29.	Deed of compromise	5.00
30.	Power of Attorney	5.00
31.	Application for restoration of suit or appeal dismissed in default	5.00
32.	Objection petition under Order XXI rule 58 C.P.C.	5.00
33.	Application under Order XXI Rule 66 C.P.C.	5.00
34.	Application for stay of proceedings for realisation of fine	5.00
35.	Application under Indian Lunacy Act, with copies	5.00
36.	Security Bond	5.00
37.	Personal Bond	5.00
38.	Application for demarcation	5.00
39.	Application for correction of Khasra girdawari	5.00
40.	Notice for ejectment	5.00

SCHEDULE

41.	Application for redemption	5.00
42.	Application for proclamation	5.00
43.	Application for recovery of rent (Form M)	! Under the Punjab Security of Land Tenures Rules, 1956.
44.	Notice for deposit of rent (Form N)	!
45.	Notice to landowner to accept the rent (Form R)	! 5.00

Sr. No. Nature of document Scale of fee

CATEGORY—III

46.	Written statement or replication	10.00
47.	Application for eviction or fixation of fair rent	10.00
48.	Application for transfer of case	10.00
49.	List of reliance	10.00
50.	Complaint	10.00
51.	Revision Petition	10.00
52.	Review Petition	10.00
53.	Application for permission to sue or appeal in forma pauperis, with list of property	10.00
54.	Application under Hindu Marriage Act or Special Marriage Act with copies	10.00
55.	Appeal (Revenue)	10.00
56.	Deed of Agreement	10.00
57.	Application for deposit of rent	10.00

Sr. No. Nature of document Scale of fee

CATEGORY — IV

58.	Suit application/plaint	15.00
59.	Partition suit	15.00
60.	Application for purchase of land Under the Punjab (Form Q) Security of Land Tenures Rules, 1956	
61.	Application for ejectment, (Form L)	1956
62.	Application for dispossession of tenant by small landowner (Form K-1)	
63.	Suit for recovery of rent	15.00
64.	Miscellaneous application not included in the foregoing items	5.00"]

THE PUNJAB OCCUPANCY TENANTS (VESTING OF PROPRIETARY RIGHTS) ACT, 1952

[Punjab Act No. 8 of 1953]

Received the assent of the President on the 14th April, 1953, and was first published in the Punjab Government Gazette, (Extraordinary), of the 15th April, 1953.

List of Amending Acts

1. Amended by Punjab Act 13 of 1955
2. Amended by Punjab Act 31 of 1958
3. Amended by Punjab Act 29 of 1959

An Act to vest proprietary rights in occupancy tenants and to provide for payment of compensation to the landlords whose rights are extinguished and for certain consequential and incidental matters.

Case Law

Punjab Tenancy Act, 1887—Section 77(3)(d)—Question to be examined is if civil court has a jurisdiction to declare a tenant as occupancy Tenant, even though section 77(3)(d) of the Tenancy Act, contemplates that a suit by a tenant to establish a right to occupancy falls within the exclusive jurisdiction of Revenue Court—With the advent of the 1952 Act, the occupancy rights ceased to exist, and statutory ownership created in lieu thereof, a suit for occupancy rights would be wholly meaningless—Civil court has a jurisdiction to entertain a suit of declaration of ownership.; **Dharam Singh (deceased) L.Rs. and others v. Bhagwan Singh and others : 2005(3) Land L.R. (Pb. & Hry.) 172**

Punjab Tenancy Act, 1887—Section 77(3)(d)—Jurisdiction of Civil Court and Revenue Court—Whether after coming in force of vesting act, Civil Court would have exclusive Jurisdiction ? (YES)—Held, After coming into force of the Vesting Act, the Civil Court alone would have the jurisdiction to determine the dispute envisaged in Section 77(3)(d) of the Act and the jurisdiction of the revenue Court would be barred—Civil suit would lie with respect to both the categories of occupancy tenants envisaged in Section 2(f) of the Vesting Act.; **Shiv Charan v. Commissioner, Haryana and others : 2005(3) Land L.R. (Pb. & Hry.) (FB) 326**

Section:- 1

1. **Short title, extent and commencement.**—(1) This Act may be called the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952.

(2) It extends to the whole of the State of Punjab.

(3) It shall be deemed to have come into force on the 15th day of June, 1952.

Statement of objects and Reasons.—In March, 1949, a Land Reforms Committee was appointed by Government to examine the tenancy legislation in force in this State and to suggest ways and means to ameliorate the economic condition of tenants. One of the recommendations of that Committee was that the occupancy tenants should be given proprietary rights in their tenancies on payment of suitable compensation of the landlords. The Committee was of the view that conferment of proprietary rights in the land on the actual tiller of the soil was in conformity with modern trends of thought. The Committee also felt that because of the tension prevailing between occupancy tenants and their landlord neither the tenant nor the landlord was in a position to develop the land to its utmost. As the State Legislature was suspended, the President of the Union enacted the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1951 (President's Act No. VIII of 1951). In order to give effect to the recommendations made by the Land Reforms Committee. It came into force from 15th June, 1952.

2. Under the Act as enacted by the President all rights of landlords in the land held by occupancy tenants, whether at present or in future, are to be extinguished and these will pass to the occupancy tenants on payment of such compensation for acquisition of these rights as may be determined under the Act. In brief the Act aims at converting all occupancy tenants into proprietors of their tenancies. The evacuee property has, however, been exempted from the provisions of this Act because there has been no final agreement with Pakistan regarding it and the land left by displaced persons in Pakistan.

3. Now that the State Legislature is in session the Act is being re-enacted under Article 375(2) of the Constitution of India. The Act has been slightly modified now so as to enable the occupancy tenants to acquire proprietary rights in the Shamlat land also". (Punjab Govt. Gazette Extraordinary, dated 1.10.1952, P, 1061-1062)

Respondents have filed application under Section 4 of the Punjab Tenancy (Vesting of Proprietary Rights) Act which is irrelevant as the act is not applicable to Pepsu—Application has rightly been treated an application

Section:- 2

under Pepsu Tenancy (vesting of Proprietary Rights) Act and upheld the final order of Collector, Patiala dated 12.1.1988 whereby the changed mutation was rejected—As for Punjab Tenancy Act, the Government is not a person, which word includes man, woman or any living human being—Or is not a landlord as against occupancy tenant—And as the occupancy tenant failed to adduce any proof in that respect, he was eligible to eviction—Punjab Tenancy Act, 1887; **Municipal Committee, Patiala v. Sh. Jasmer Singh Jailjee : 1997(1) ALL INDIA LAND LAWS REPORTER (F.C. PB) 230**

2. Definitions.— In this Act, unless the context otherwise requires:-

(a) "Appointed day" means-

(i) in relation to any tenant who, immediately before the commencement of this Act, is recorded as an occupancy tenant of any land in the revenue records, on the 15th day of June, 1952.

(ii) in relation to any tenant who obtains a right of occupancy in any land after the commencement of this Act, the date on which he obtains such right of occupancy;

(b) "Collector" means the Collector of the district in which the land, in respect of which proprietary rights are vested in an occupancy tenant under this Act is situate, and includes any officer not below the rank of an Assistant Collector of the First Grade specially empowered by the State Government to perform the duties of a Collector under this Act;

(c) "Commissioner" and "Financial Commissioner" have the meanings respectively assigned to them under the Punjab Land Revenue Act, XVII of 1887 (Punjab Act, XVII of 1887);

(d) "land", "land revenue" and "rent" have the meanings respectively assigned to them in the Punjab Tenancy Act, XVI of 1887. (Punjab Act XVI of 1887);

(e) "landlord" means a person under whom an occupancy tenant holds land and to whom the occupancy tenant is, or but for special contract would be, liable to pay rent for that land, and includes the predecessors and successors in interest of a landlord and shall for the purposes of section 4 include the mortgagee.

(f) "occupancy tenant" means a tenant who, immediately before the commencement of this Act, is recorded as an occupancy tenant in the revenue records and includes a tenant who, after such commencement, obtains a right of occupancy in respect of the

Section:- 3

land held by him whether by agreement with the landlord or through a court of competent jurisdiction or otherwise, and includes also the predecessors and successors in interest of an occupancy tenant.

Case Law

Sections 2(a), 2(f) and 3—The Punjab Tenancy Act, 1887, Section 77(3)(d)—Occupancy Rights—Acquisition of—Granted by Revenue Court—Held—After coming in force of Act of 1952, revenue courts were not competent to decide the question and every tenant claiming occupancy rights automatically became owner of the land by operation of law—Impugned orders set aside.; **Surinder Kumar v. V.P. Johahr, Financial Commissioner, Haryana : 2002(3) ALL INDIA LAND LAWS REPORTER (P&H) 676**

3. Vesting of proprietary rights in occupancy tenants and extinguishment of corresponding rights of landlords.— Notwithstanding anything to the contrary contained in any law, custom or usage for the time being in force, on and from the appointed day-

(a) all rights, title and interest (including the contingent interest, if any, recognized by any law, custom or usage for the time being in force and including the share in the Shamlat deh with respect to the land concerned) of the landlord in the land held under him by an occupancy tenant, shall be extinguished, and such rights, title and interest shall be deemed to vest in the occupancy tenant free from all encumbrances, if any, created by the landlord;

Provided that the occupancy tenant shall have the option not to acquire the share in the Shamlat deh by giving a notice in writing to the Collector within six months of the publication of this Act or from the date of his obtaining occupancy rights whichever is later;

(b) the landlord shall cease to have any right to collect or receive any rent or any share of the land revenue in respect of such land and his liability to pay land revenue in respect of the land shall also cease;

(c) the occupancy tenant shall pay direct to the Government the land revenue accruing due in respect of the land;

(d) the occupancy tenant shall be liable to pay, and the landlord concerned shall be entitled to receive and be paid, such compensation as may be determined under this Act.

Case Law

Section 3—Regular Second Appeal—Concurrent findings of fact—Both the Courts below hold that on appointed day the plaintiffs have been found to be in possession

Section:- 4

of the suit land as occupancy tenants--No interference would be warranted. ; **Deep Chand & Ors. v. Yed Ram & Ors. : 2006(1) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 48**

Section 3—Vesting of proprietary rights in occupancy tenants and extinguished of corresponding rights of land lords—Neither the appellants nor their predecessors were recorded as occupancy tenants in the revenue records, An immediately before the commencement of the Proprietary Rights Act—Nor did they obtain a right of occupancy in respect of the said land either by agreement with the landlord or through a court of competent jurisdiction or otherwise after the commencement of the Act—Effect of—Held, The appellants, therefore, do not answer the definition of 'occupancy tenant' under the Act—They cannot derive any benefit under Section 3 of the Act—Suit is based on title—Title is not made out. Appeal dismissed.; **Puran & Ors. v. Gram Panchayat, Faridabad : 2006(2) ALL INDIA LAND LAWS REPORTER (Supreme Court) 319**

Section 3—Punjab Tenancy Act, 1887, Sections 5 and 8—Punjab Village Common Lands (Regulations) Act, 1961, Section 4, & 4(3)—Vesting of Rights in Panchayats and non proprietors—Appellants had not accorded a status similar to occupancy tenants by custom or otherwise (though not recorded as occupancy tenants in the revenue record), such as Dholdars, Bhomidars, Butimars, Basikhuophaus, Saunjidars and Muqararidars—Appellants were not mortgagees in favour of whom, the land was mortgaged with possession—The Panchayat had vested right in the land in dispute. Held, Section 4(3) will be attracted only if the following 3 conditions are satisfied :-

- i) the person must be cultivating land which is part of Shamlat deh of village
- ii) he should be cultivating such land for a period of 12 years immediately preceeding the commencement of the Act; and
- iii) he should be cultivating such land without payment of charges in excess of the land revenue and cess. ; **Puran & Ors. v. Gram Panchayat, Faridabad : 2006(2) ALL INDIA LAND LAWS REPORTER (Supreme Court) 319**

4. Determination of compensation payable to landlord.—Any landlord whose ghts have been extinguished under section 3 may, within twelve months from the appointed day, apply to the Collector, in such form as may be prescribed for the determination of the amount of compensation payable to him by the occupancy tenant:

Provided that the Collector may entertain the application after the expiry of the said period of twelve months if he is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

(2) On receipt of an application under sub-section (1), the Collector shall issue notice to the parties concerned and after giving the parties an opportunity of being heard and after making such inquiry as may be pre-

Section:- 5

scribed, shall make an award determining the amount of compensation payable by the occupancy tenant to the landlord in accordance with the provisions of section 5.

(3) Where there is any dispute as to the person or persons who are entitled to the compensation, the Collector shall decide such dispute and if the Collector finds that more than one person is entitled to compensation, he shall apportion the amount thereof amongst such persons.

(4) Where the compensation is payable to a minor or to a person having a limited interest the Collector may make such arrangements as may be equitable having regard to the interest of the minor, the parties concerned and their reversioners.

5. Principles of compensation.—The amount of compensation payable to the landlord under this Act shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say:-

(a) Where the rent payable by the occupancy tenant is expressed in terms of the land revenue in respect of the land, the amount of compensation shall:-

(i) if the right of occupancy has been obtained on any of the grounds specified in section 5 of the Punjab Tenancy Act, 1887 (XVI of 1887), (Punjab Act XVI of 1887), be equal to the annual rent (exclusive of land revenue and cesses) plus one anna for every rupee of the annual land revenue multiplied in each case by twenty;

(ii) in any other case, be equal to the annual rent (exclusive of land revenue and cesses) plus two annas for every rupee of the annual land revenue multiplied in each case by twenty-five;

Illustration (B). If the annual rent (exclusive of land revenue and cesses) is RS. 50 and the land revenue payable annually is Rs. 160, then, in a case coming under clause (ii), the amount of compensation will be $(Rs.50+Rs.20) \times 25 = Rs. 1,750$.

(b) Where the rent payable by the occupancy tenant is not any expressed in terms of the land revenue in respect of the land, [and subject to the condition that it shall in no case exceed a quarter of the market value of the land], the amount of compensation shall,-

(i) if the rent is paid in cash, whether as a fixed amount or at a fixed rate with reference to the area of the land, be equal to twenty times the average annual rent in respect of the land;

Sections:- 6 - 7

(ii) if the rent is paid by a division or appraisalment of the produce on the basis of batai, bear the same proportion to average market value of the land as the landlord's share of the produce bears to entire produce of the land;

[--] [The Proviso omitted by Punjab Act 13 of 1955];

(iii) if the rent is paid partly in cash (whether as a fixed amount or at a fixed rate with reference to the area of the land) and partly as a share of the produce, be equal to twenty times the average annual rent in respect of the land;

[--] [The proviso omitted by Punjab Act 13 of 1955];

(iv) [if in cases falling under sub-clauses (i) and (iii) it is not possible to determine the average annual rent, be one-fourth of the average market value of the land] [Sub-clause (iv) added by Punjab Act 29 of 1959, Section 2].

Explanation.— For the purpose of determining the average market value of the land or average annual rent under this clause, the average of the market value of the land, or as the case may be, of the rent paid or payable, and in any case where rent is a share of the produce the average of the price of the produce, during a period of fifteen years commencing from the 1st day of June, 1935, shall be taken into account.

(c) where the share in the Shamilat Deh has also vested in the occupancy tenant, the amount of compensation for it shall be equal to five times the land revenue.

6. Payment of Compensation.— The compensation awarded under this Act shall either be paid in cash or be deposited with Collector by the occupancy tenant within a period of three months of the date of the award;

Provided that the Collector may, having regard to the amount of compensation or for other reasons and after recording his reasons for so doing, allow the occupancy tenant to pay the compensation in such six monthly instalments, not exceeding in any case six years, as he thinks fit.

(2) Where the occupancy tenant makes a default in the payment of compensation in accordance with the terms of the award, the amount due may be recovered in the same manner as an arrear of land revenue.

7. Appeal, review and revision.— (1) An appeal shall lie from—

(a) any award or order made by the Collector, to the Commissioner; and

Section:- 8

(b) any order of the Commissioner, to the Financial Commissioner;

Provided that when an original award or order is confirmed on first appeal, a further appeal shall not lie.

(2) The Collector, the Commissioner or the Financial Commissioner may, either of his own motion or on the application made within ninety days of the party interested, review and on such review, modify, reverse or confirm any order passed by himself or by any of his predecessors in office; and such power shall be exercised subject to the provisions, so far as they may be applicable of section 82 of the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887).

(3) With respect to all matters dealt with under this Act, the Financial Commissioner shall have the same power to call for to examine and revise the proceedings of the Collector or the Commissioner as provided in section 84 of the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887).

(4) The period of limitation for an appeal under this section shall run from the date of the award or order appealed against and shall be as follows:-

(a) when the appeal lies to the Commissioner... sixty days,

(b) when the appeal lies to the Financial Commissioner.... Ninety days.

(5) In computing the period for an appeal from an award or order under this Act, the Indian Limitation Act, 1908 (IX of 1908), shall apply.

(6) For the purposes of this Act, the Collector, the Commissioner and the Financial Commissioner may, in so far as may be necessary or expedient to do so, exercise all the powers of a revenue officer or a revenue court as the case may be under the Punjab Tenancy Act, 1887 (Punjab Act, XVI of 1887).

8. Certain mortgages and charges not enforceable against land held by occupancy tenants.— Notwithstanding anything contained in any contract or in any law for the time being in force, no claim or liability, whether under and decree or order of a civil court or otherwise enforceable against a landlord for any money which is charged on or is secured by a mortgagee of, any land held under him by an occupancy tenant, shall be enforceable against the land, and every such claim or liability shall be deemed to be a charge on the compensation payable to the landlord respect of such land.

Sections:- 9 - 10

[9. **Act not to apply to evacuee property.**— (1) Nothing in this Act shall apply to evacuee property as defined in the Administration of Evacuee Property Act, (1950 XXI of 1950).] [Substituted by Punjab Act No. 31 of 1958]

(2) Notwithstanding anything contained in sub-section (1) the provisions of this Act shall subject to the provisions of sub-section (3) apply to-

(a) a person who, after the commencement of this Act, obtains a right of occupancy from the Central Government under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954); and

(b) an occupancy tenant or a landlord who is an evacuee as defined in clause (d) of section 2 of the Administration of Evacuee Property Act, 1950 (XXI of 1950).

(3) For the purposes of section 3 and sub-section (1) of section 4, the appointed date in relation to a person referred to in sub-section (2), shall notwithstanding anything to the contrary, contained in this Act or in any Judgment, decree or order of any court, be,-

(a) in the case of a person who obtains a right of occupancy from the Central Government after the commencement of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) (Amendment) Ordinance, 1958, the date on which such right is obtained; and

(ii) in any other case, the date of commencement of Punjab Occupancy Tenants (Vesting of Proprietary Rights) (Amendment) Ordinance, 1958].

10. **Bar of Jurisdiction.**— Save as otherwise expressly provided in this Act, every award or order made by the Collector, Commissioner or Financial Commissioner shall be final, and no proceeding or order taken or made under this Act, shall be called in question by any court or before any officer or authority.

Case Law

Section 10—Sikh Gurdwara Act, 1925—Sections 10(3) and 78- Transfer of Property Act, 1882-Section 41-Appellants, subsequent purchasers of land from respondents 23- Suit was filed for declarations of title-Property in dispute originally belonged to J., and occupancy tenant-Rights then devolved on respondents 2 and 3 through B who was father of respondent 2 and husband of respondent 3-By virtue of Occupancy Tenants Act, they became absolute owners and hence the suit for title-There are documents to show that suit property was included in the list of properties in the

Sections:- 11 - 12

notification dated 19.2.1932—Property had vested in the Gurdwara as per Section 10(3) of the Gurdwara Act under which notification was issued—Since property vested in Gurdwara and Respondents 2 and 3 were in cultivating possession, no title could be conferred by them on the appellants in respects of suit properties—Appeal without merit is liable to be dismissed.; **Dalip Singh and Ors. v. Sikh Gurdwara Prabhandhak Committee and Ors.**: 2004(1) ALL INDIA LAND LAWS REPORTER (Supreme Court) 331

Section 10—Occupancy Tenants—With the enforcement of 1953 Act, plaintiffs, occupancy tenants, claim ownership rights as per provisions of S.3 of the jurisdiction to try the suit—Plaintiffs prayer is based on the nature of tenancy—Whether plaintiffs were occupancy tenants on the relevant date is the question—Which could be decided only under the Punjab Tenancy Act, 1887—S. 77(3) (d)—Such a decision, if in the affirmative would entitle the plaintiffs to enlargement of their occupancy tenants rights into proprietary rights—And it is the revenue Court alone which can go into the question—Civil Court has not jurisdiction—Trial Court directed to return the plaint to plaintiffs for presentation to the Revenue Court Punjab Tenancy Act, 1887 S. 77(3) (d); **Omkar Singh v. Nirmal** : 2001(1) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 208

Section 10—Occupancy Tenant or tenant—Nature of tenancy is to confer the right of ownership over the land in cultivating possession—And nature of tenancy is to be decided by the Revenue Authorities or Revenue Court—Jurisdiction of the Civil Court is barred in unambiguous terms—When law confers jurisdiction on a Tribunal and attaches finality to its orders/findings, no other forum will have jurisdiction even for appeals; **Jiwan v. Ram Sarup (Died) through his LRs.** : 1999(4) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 537

Section 10—Typographical mistake cannot adversely affect the rights of the appellant—Remedy is to approach the same Court which passed the said order for rectification of the mistake—Only that Court can rectify it, such is the provision in S. 152 of C.P.C.—Accidental slip, clerical or typographical mistake can be corrected in that manner alone—Civil Procedure Code 1908—S. 152; **Jiwan v. Ram Sarup (Died) through his LRs.** : 1999(4) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 537

11. **Bar to legal proceedings.**—No prosecution, suit or other legal proceeding shall lie against the State Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules made thereunder.

12. **Power to make rules.**—(1) The State Government may, be notification in the Official Gazette, makes rules to carry out of the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

Section:- 13

- (a) the form and manner in which an application for determination of compensation may be made by the landlord;
- (b) the form of notice and the manner in which notices may be served under this Act;
- (c) the manner in which inquiries may be held under this Act;
- (d) the manner in which compensation may be paid;
- (e) the manner in which appeals and applications for review and revision may be filed;
- (f) any other matter which has to be, or may be prescribed.

13. Repeal and saving.- The Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1951 (President's Act VIII of 1951), is hereby repealed but, notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Act shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done or action was taken.

Personal Notes

1. The first part of the document is a list of names and addresses, which are arranged in a columnar format. The names are written in a cursive script, and the addresses are written in a more formal, printed style. The list includes names such as "John Doe", "Jane Smith", and "Robert Brown", along with their respective street addresses and city names.

2. The second part of the document is a series of short, handwritten notes or entries. These notes are written in a cursive script and are arranged in a columnar format, similar to the first part. The notes appear to be a continuation of the information provided in the first part, possibly providing additional details or comments about the individuals listed.

3. The third part of the document is a series of short, handwritten notes or entries. These notes are written in a cursive script and are arranged in a columnar format, similar to the first part. The notes appear to be a continuation of the information provided in the first part, possibly providing additional details or comments about the individuals listed.

4. The fourth part of the document is a series of short, handwritten notes or entries. These notes are written in a cursive script and are arranged in a columnar format, similar to the first part. The notes appear to be a continuation of the information provided in the first part, possibly providing additional details or comments about the individuals listed.

5. The fifth part of the document is a series of short, handwritten notes or entries. These notes are written in a cursive script and are arranged in a columnar format, similar to the first part. The notes appear to be a continuation of the information provided in the first part, possibly providing additional details or comments about the individuals listed.

6. The sixth part of the document is a series of short, handwritten notes or entries. These notes are written in a cursive script and are arranged in a columnar format, similar to the first part. The notes appear to be a continuation of the information provided in the first part, possibly providing additional details or comments about the individuals listed.

7. The seventh part of the document is a series of short, handwritten notes or entries. These notes are written in a cursive script and are arranged in a columnar format, similar to the first part. The notes appear to be a continuation of the information provided in the first part, possibly providing additional details or comments about the individuals listed.

8. The eighth part of the document is a series of short, handwritten notes or entries. These notes are written in a cursive script and are arranged in a columnar format, similar to the first part. The notes appear to be a continuation of the information provided in the first part, possibly providing additional details or comments about the individuals listed.

9. The ninth part of the document is a series of short, handwritten notes or entries. These notes are written in a cursive script and are arranged in a columnar format, similar to the first part. The notes appear to be a continuation of the information provided in the first part, possibly providing additional details or comments about the individuals listed.

10. The tenth part of the document is a series of short, handwritten notes or entries. These notes are written in a cursive script and are arranged in a columnar format, similar to the first part. The notes appear to be a continuation of the information provided in the first part, possibly providing additional details or comments about the individuals listed.