

SECTION-G

MISCELLANEOUS INSTRUCTIONS

REGARDING DEMARCATION AND

PARTITION ETC.

SECTION-G

Miscellaneous Instructions regarding demarcation and partition etc.

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Government of Himachal Pradesh
Department of Revenue

No. Rev. B.A.(3)-5/2013 Dated Shimla-2.

6-01-2017

NOTIFICATION

The Governor, Himachal Pradesh is pleased to insert a new para after para 8.36 (i) of the Himachal Pradesh Land Records manual, 1992 originally notified vide notification No. Rev.(LR)A 5(58)/89 dated 3rd December, 1992 as follows:-

“Para 8.36 (i)(A)

In case of mortgages being created under the following provisions:-

1. The loans being advanced by deposit of Title Deed for creation of Equitable Mortgages.
2. The loans being advanced under the Himachal Pradesh Agricultural Credit Operation and Miscellaneous Provisions (Banks) Act, 1972.

The Banks/ Financial Institutions, after verifying the revenue record and the applicant/mortgager, may electronically forward their request for creation of charge to the Assistant Collector concerned. The onus of identifying the applicant/mortgager will be of the Bankers/Financial Institution. The Assistant Collector concerned on receiving the online request, will forward the application online to the concerned Patwari. The Patwari will also enter a “Rapat” in his “Roznamacha” to this effect and incorporate the entries of the lien in the Remarks column of the relevant jamabandi on the basis of Rapat Raznamacha. The Patwari after doing the needful will send the matter on-line back to the Assistant Collector concerned thereby intimating the Rapat Number so entered. The Assistant Collector will then accept the application of the Bank/Financial Institution and send it back to them on-line.”

By Order

Sd/-

(Tarun Shridhar)

ACS-cum-F.C. (Revenue) to the
Government of Himachal Pradesh.

No.Per (AP-II)A (3)-9/73
Government of Himachal Pradesh
Department of Personnel
Appointment-II

Dated Shimla-171002

15th February,2016

From

The Chief Secretary to the
Government of Himachal Pradesh

To

1. All the Additional Chief Secretaries/Principal Secretaries/ Secretaries to the Government of Himachal Pradesh, Shimla-171002.
2. All the Heads of Department in Himachal Pradesh.
3. All the Divisional Commissioners/Deputy Commissioners in Himachal Pradesh.

Subject L- **Purchase of land by Government servants –permission under Conduct Rules.**

Sir,

I am directed to invite your attention to this Department of letters of even number dated 12—1-1996,16-08-1997 and 26-09-2012 on the subject noted above and to say that certain officers/officials indicated in the Annexure to the instructions dated 12-01-1996 have been barred from purchasing land/building/ immovable property within the jurisdiction of his/her posting in their own name or in the name of their family members.

After due consideration, it has now been decided that with the prior permission of the Government, in the respective Administrative Department, the officers/officials shown in the revised Annexure annexed to the instructions dated 12-1-1996 could be allowed to purchase land within the jurisdiction of their posting in their own name or in the name of any of their family members. Permission before the transaction would be mandatory.

The above revised instructions may please be brought to the notice of all concerned for strict compliance.

Yours faithfully,

Sd/-

(O.P. Sharma)

.Deputy Secretary (Personnel) to the
Government of Himachal Pradesh.

No. Rev. B.A. (5)-1/2016
Government of Himachal Pradesh
Department of Revenue

From

The Addl. Chief Secretary (Revenue) to the
Government of Himachal Pradesh.

TO

1. All the Divisional Commissioner
in Himachal Pradesh
2. All the Deputy Commissioners,
in Himachal Pradesh.

Dated: Shimla -171002. the

20th September.2016

Subject:- Regarding authorizing the Patwaris to carryout demarcation and Partition for disposal of cases before the Revenue Officers

Sir,

I am directed to say that the Government has taken note of the fact that due to vacancies of kanungos in the field & increasing pendency's of demarcation & partition cases the general public is being subject to great hardship on this account.

It has therefore been decided that Patwaris within experience of eight years and more should be deputed for carrying out demarcation and execution of mode of partition as per orders of the Assistant Collector- I & II Grade. It is however clarified that since demarcation & partition are quasi- judicial functions of Revenue Officers under section 107& 123 respectively of the Himachal Pradesh Land Revenue Act, 1954, the Revenue Officers will dispose of such cases as they presently do. The demarcation /partition cases may be taken up on campaign mode basis and cases more than six months old may be disposed on priority in the first instance. The progress made shall be reviewed by the Divisional Commissioners on the Monthly basis.

This may be brought to the notice of all Revenue Officers on priority.

Yours Faithfully

Sd/-

(Rakesh Mehta)

Joint Secretary(Revenue)to the
Government of Himachal Pradesh

No. RevB A (3)-3/2003-IV
Government of Himachal Pradesh,
Department of Revenue

From

The Principal Secretary (Revenue) to the
Government of Himachal Pradesh.

To

The Deputy Commissioner,
Solan District,, Solan, H.P.

Dated Shimla-171002

the 18th March 2014.

Subject:- **Regarding coming up of un-authorized colonies in BBN Special Area Obtaining of clarification/guidelines thereof.**

Sir,

I am directed to invite your attention to this departments letter No.Rev. B.A (3) - 3/2003-IV dated 3.1.2009, vide which instructions has been issued for strict compliance of provisions of Section 16 (c) of the Himachal Pradesh Town and Country Planning Act,1977.

The Town & Country Planner, BBNDA, EPIP-1 Jharmajri Beddi, District Solan vide his letter BBNDA/TCP/UAC/2013-51739, dated 21.1.2014 has brought to the notice of this Department that in BBNDA area, registrars/sub registrars are registering conveyance deeds of sale/gifts on share basis etc. in sheer violations of the aforesaid provisions, whereas it is mandatory to obtain prior approval of map of sub-divisions of plot from Baddi Barotiwala Nalagarh Development Authority before alienating or transferring the ownership to next incumbent. This shows that the instructions issued by the department vide letter referred to above are not being adhered to by the revenue authorities.

Apart from above, as per provisions of the H.P. Town & Country Planning Act, 1977 (amended in 2013) under which it is mandatory to apply for registration and license if plot size is more than 2500 Sq. Meters or apartments/dwelling units are more than eight in a building. or two or more buildings constructed in the plot. Earlier such provisions were there in H.P. Apartment & Property Regulation Act, 2005 which has been repealed. But, general public and property dealers were/are not obtaining registrations and licenses under aforesaid

statutes. In such a situation the people are not resorting to proper plot sub-divisions and observance of the mandatory provisions of basic amenities as per requirements of modern housing colonies under the amended HP Town & Country Planning Act, 1977, published in rajpatra on 21.09.2013. This practice is resulting in mushrooming of new colonies without the bare necessities of roads, green parks, sewerage, parking etc.

It is, therefore, directed that in order to avoid unplanned and haphazard construction in the State and to ensure planned sub-division of land in order to provide basic amenities such as roads, Path, sanitation etc. the provisions of Section 16 (c) of H.P. Town and Country Planning Act,1977 be implemented strictly to achieve the very objective behind its enactment. The registrar or Sub-Registrar will be liable for action in case the provisions of Act, ibid are not implemented in letter and spirit.

In addition to above, it may also be ensured that the provisions of HP Town & Country Planning Act, 1977 (As amended in year 2013) are complied/implemented in letter and spirit.

You are also requested to send detailed report with respect to Baddi Brotiwala Nalagarh Development-Authority area in this behalf to this department, at the earliest..

Yours faithfully,

Sd/-
(Narandra Kumar)
Deputy Secretary (Revenue) to the
Government of Himachal Pradesh.

No. Rev.B.A(4)-8/2001-IV
Government of Himachal Pradesh,
Department of Revenue.

From

The Principal Secretary (Revenue) to the
Government of Himachal Pradesh.

To

The Deputy Commissioner,
Mandi District, Mandi. H.P.

Dated Shimla-2, the 31st October, 2013.

Subject:- Issue of cases under P.P. Act.

Sir,

I am directed to refer to your letter No.MND/Peshi/2013- 44787-88 dated 28th September, 2013, on the subject cited above and say that no doubt, the government land classified as "Charagah Drakhatan" or Charagah Bitra Drakhatan" or "Khad" as referred to in your aforesaid letter, attracts the provisions of Forest Conservation Act, 1980 even if such land is not recorded in ownership and/or possession of the Forest Department. The Forest Department is responsible for removal of encroachments on lands which are owned and /or possessed by that Department.

So far as other Government lands are concerned, it is responsibility of the Revenue Department to proceed for eviction of encroachers from such lands (irrespective of its classification), under the provisions of Section 163 of the H.P. Land Revenue Act, 1954.

You are, therefore, requested to kindly direct the field revenue agencies to take further necessary action accordingly.

Yours faithfully,

Sd/-

(Rakesh Mehta)

Deputy Secretary (Revenue) to the
Government of Himachal Pradesh.

No.Rev.B.A.(3)1/2004-II
Government of Himachal Pradesh
Department of Revenue

From

The Principal Secretary(Revenue)to the
Government of Himachal Pradesh.

To

All The Deputy Commissioners
in Himachal Pradesh.

Dated: Shimla -171002,

28-01-2012

Subject:- Instruction for attestation of mutation at Tehsil Level.

Sir,

In continuation of this department letter of even number dated 13.12.2011 regarding above cited subject I am directed to say that as you are aware that amendments in the provisions of Section 34 and 35 of the HP Land Revenue Act , 1954 have been carried out in order to provide an option to the citizens to opt for attestation of mutation at Tehsil level . Subsequently the provisions of chapter 8 of the Land Records Manual have also been amended vide notification of even number dated 9.1.2012 .

The matter has also been taken up with National Informatic Centre , H.P. State Centre , to make necessary changes in the existing software. The National Informatic Centre vide letter No. NICHP/Gr1/Project /HIM Bhoomi (1)-2003/47, dated 18th January,2012 has informed required changes have been carried out in the Him Bhoomi and HIMRIS software. The updated soft ware version have also been transferred to the District Informatic Officers of NIC on 14th January , 2012. Hence , the new soft ware has become operational in the State.

You are, therefore requested to kindly direct all the Tehsildars/Naib Tehsildars to attest the mutation at Tehsil/Sub Tehsil level if individual desires so.

Yours faithfully,

Sd/-

Deputy Secretary(Revenue) to the
Government of Himachal Pradesh.

No. Rev. B.A(3)-3/2012
Government of Himachal Pradesh
Department of Revenue

From

The Addl. Chief Secretary (Revenue) to the
Govt. of Himachal Pradesh.

To

1. The Divisional Commissioner,
Shimla/Mandi/ Kangra at Dharmashla,HP
2. All the Deputy Commissioners
in Himachal Pradesh
3. The Director Land Records,
Himachal Pradesh, H.P. Shimla-9
4. The Settlement Officer,
Shimla /Kangra, H.P.
5. All the SDO (C) in H.P.
6. The Section Officer Rev. (D),
H.P. Sectt. Shimla-2.
7. The COC to the F.C. (Appeals),
Govt. of H.P.
8. All the Tehsildars/ Naib-Tehsildars
in H.P.

Dated : Shimla-171002 the 13th September, 2012

Subject:- Instructions regarding demarcation of land.

Madam/Sir,

Section 107 of the H.P. Land Revenue Act, 1954 empowers the Revenue Officers to define boundaries / limits of any estate, or of any holding, field or other portion of an estate. Under the provisions of this section a Revenue Officers, including an Assistant Collector of either grade are competent to demarcate boundaries of any land when an application complete in all respect is presented for the purpose.

On receipt of an application for demarcation , complete in all respects , the Revenue Officers concerned (Assistant Collector of either grade) can direct the Field

Kanungo or a consultant to carry out demarcation of the concerned land in the presence of all the necessary parties as per procedure laid down in Chapter-10 of the H.P. Land Records Manual revised vide this department notification of even no. dated 16th July, 2012 .(Alternatively he may proceed to carry out demarcation himself.) The Field Kanungo or consultant , as the case may be, submits its reports to the concerned Revenue Officers who passes the final order on the application after considering the report and objection(s) if any, raised by the interested party(ies).

In case the concerned Revenue Officers is not satisfied with the report and if he is of the view that any/ some of the objections are required to be redressed in the field he may himself visit the spot and get the demarcation done in the presence of interested parties . Hence , it is clear that the demarcation proceedings will be final only after final order is passed by the Revenue Officers (Assistant Collector of either grade) in quasi –judicial capacity.

In the light of the aforesaid legal position the notification of 16th July, 2012 supersedes the instruction issued by this department vide letter No. Rev. D (A)2-1/97 dated 24th April, 1997 whereby only a Revenue Officer of the level of AC-IIInd Grade and above was empowered to go to the spot and demarcate private lands touching Govt. lands , is no longer in operation. Henceforth, Revenue Officer receiving an application under section 107 may direct the Field kanungo or a consultant, as the case may be , to demarcate the boundaries of private lands touching Govt. land as is being done in case of private lands abutting other private lands and pass proper order after considering their report and objection(s) if any.

Yours faithfully,

Sd/-
Deputy Secretary (Revenue) to the
Government of Hiamchal Pradesh.

No. Rev. (LR)IGR-A(5)/2/2009-9484
Inspector General of Registration,
28, SDA Complex, Shimla-171009.

To

The Settlement Officer,
Shimla, Division Shimla, H.P.

Dated Shimla-171009

22 November ,2010.

Subject:- Regarding provisions of Registration Act in case of exchange of land with built up structure on it- clarification thereof.

Sir,

Please refer to your letter No. Rev./ ST/ SML/ Peshi/1-140/08-5088 dated 18th October, 2010 on the subject cited above. In this behalf it is stated that under Section 118 of the Transfer of Property Act, 1882, the term of "exchange" has been defined as follows:-

" When two persons mutually transfer the ownership of one thing for the ownership of another, neither thing nor both things being money only, the transaction is called an exchange"

Further, Section 17 of the Registration Act, 1908, relating to the ' documents of which registration is required compulsory' clarifies the 'exchange' as under:-

Section 118 of the Transfer of Property Act, 1882, refers to cases where two persons owning two specific properties transfer or convey their respective ownership to each other. Where the property alleged to be conveyed by a deed of exchange is more than Rs. 100 in value, until the deed of exchange is registered it cannot affect any property nor can it be received in evidence of any transaction affecting immovable property.

A transfer of property in consideration of forbearance to sue is not an exchange because a right to sue or take proceeding cannot be the subject of ownership. Where certain joint owners of certain property make an oral arrangement with the owner of a different property for mutual transfer of ownership it is a case of exchange which is not valid without registration. If part of the consideration given by the vendee is proprietary interest in land and part is cash consideration, the

transaction is that of exchange. Where a house worth Rs. 1,500 is exchanged for land worth Rs. 500, the transaction is one of exchange.

It has further been clarified that a deed of exchange relating to immovable property of the value to Rs. 100/- or more requires registration. But the entry in the 'roznamcha' by a Patwari of the oral exchange reported to him by the parties is not a deed of exchange and an unregistered deed of exchange of properties though accompanied by delivery of possession does not create title against each other.

As per Article 31 of Indian Stamp Act, 1899, stamp duty @ 3% of the value of the property of greatest value as set forth in such instrument and in addition to that registration fee @ 2 % of the same value (maximum of Rs. 25,000/-) is required to be levied in the Deed of Exchange.

You are, therefore, requested to proceed further in the matter accordingly.

Yours Faithfully,

Sd/-

Inspector General of Registration
H.P., Shimla -171009

**No. RevB.A. (3)12/95-II
Government of Himachal Pradesh
Department of Revenue**

From

F.C.-cum-Secretary (Revenue) to the
Government of Himachal Pradesh.

To

1. The Commissioner (Revenue)
H.P. Shimla-2
2. All the Deputy Commissioners
in Himachal Pradesh.
3. All the Settlement Officers
in Himachal Pradesh.
4. All the Sub-Divisional Officers (Civil)
in Himachal Pradesh.
5. All the Tehsildars in H.P.
6. All the Naib Tehsildars
in charge Sub-Tehsils in H.P.

Dated Shimla-171002

7th February, 2001.

Subject:- Encroachment Policy-instructions regarding.

Sir,

It has come to the notice of the Government that the encroachments cases are not being disposed of in accordance with the instructions of the Government issued vide letter of even number dated 1st September, 1998, which is a very serious matter.

I have been directed to say that the action against the encroacher in encroachments proceedings may be taken without delay. However, encroachment cases prepared during the settlement operations shall be kept in abeyance till further orders.

Yours faithfully,

Sd/-

.Secretary (Revenue) to the
Govt. of Himachal Pradesh.

संख्या रैव0बी0एफ0(8)-6/97
हिमाचल प्रदेश सरकार
"राजस्व विभाग"

प्रेषक

वित्तायुक्त एवं सचिव(राजस्व)
हिमाचल प्रदेश सरकार।

प्रेषित

1. भू-व्यवस्था अधिकारी,
शिमला मण्डल, शिमला-9.
2. भू-व्यवस्था अधिकारी,
कांगड़ा मण्डल, कांगड़ा, हि0प्र0।
3. निदेशक भू-अभिलेख,
हिमाचल प्रदेश, शिमला-9.

दिनांक शिमला-171002

22 अप्रैल, 2000.

विषय:-

भू-व्यवस्था के समय तैयार किए गये/किये जाने वाले भू-अभिलेख में "वन" व "जंगल" से सम्बन्धित इन्द्राज को दर्ज करने बारे मार्ग-निर्देश।

महोदय,

"जय हिन्द"

उपरोक्त विषय पर मझे यह कहने का निर्देश हुआ है कि वर्तमान राजस्व भू-अभिलेख में भूमि पर पेड़ होने को अवस्था में लोगों को निजी भूमि की किस्म को "वन", "वनों" या "जंगल" के इन्द्राजों से दर्शाया गया है। इसी प्रकार के इन्द्राज वर्तमान भू-व्यवस्था के दौरान भी किए जा रहे हैं। इस प्रकार के इन्द्राजों से लोगों की कठिनाईयां बढ़ रही हैं। इस सम्बन्ध में गहन विचार करने के पश्चात यह निर्णय लिया गया है कि भू-व्यवस्था के दौरान ऐसे इन्द्राज के बारे निम्न प्रकार के मार्ग-निर्देश का अनुसरण किया जाए:-

1. जहां पिछले भू-व्यवस्था के समय "वन" या "द्रखतान" का इन्द्राज नहीं है उसमें "वन" या "द्रखतान" का इन्द्राज न किया जाए।
2. भू-व्यवस्था के दौरान यदि इन्द्राजों में परिवर्तन लाया गया है उसे पहले के भू-व्यवस्था में हुए इन्द्राजों के अनुसार ही रखा जाए।
3. "चरागाह" को "चरागाह बिला द्रखतान" या "चरागाह द्रखतान" न लिखकर "चरागाह" ही लिखा जाए।
4. आरक्षित वन, "जंगल मैहफूजा मैहदूदा" "जंगल मैहफूजा गैर मैहदूदा" का इन्द्राज यथावत अधिसूचना अनुसार रखा जाए।
5. जहां नए भू-व्यवस्था में पुराने भू-व्यवस्था के अनुसार उपर्युक्त किस्मों में परिवर्तन लाया गया है, उसका कार्यान्वयन जमाबन्दी मिसले हकीयत से लेकर प्रत्येक जमाबन्दी के खाना विवरण में नोट दर्ज करके दिया जाए।

अतः आपसे अनुरोध है कि सरकार के उपरोक्त दिशा-निर्देशों से अपने अधीनस्थ समस्त

अधिकारियों/कर्मचारियों को अवगत करवाएं तथा इस सम्बन्ध में की गई कार्रवाहों से इस विभाग को भी सूचित किया जाए।

भवदीय,
हस्ता/-
उप-सचिव(राजस्व),
हिमाचल प्रदेश सरकार।