

### **Exclusion of jurisdiction of civil court (section 25)**

The Agrarian Reforms laws uniformly contains provision that no civil court shall have jurisdiction to decide any dispute arising out of the provisions of such legislations, that such disputes shall be decided by the Revenue Authorities and that their decisions shall be final. Section 25 of the Agrarian Reforms Act 1976 deals with this exclusion of the jurisdiction of civil courts and reads as under:-

**Notwithstanding anything contained in any law for the time being in force:**

- a) No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter arising under this Act or the Rules made thereunder;**
- b) No order of any officer or authority passed under this Act or the Rule made thereunder shall be called in question in any civil court.**

The settled principle of law is that civil courts are having jurisdiction to hear and decide all suits of civil nature unless the jurisdiction is excluded, expressly or by necessary implication by law. Section 9 of the CPC provides that civil courts shall have jurisdiction to try all suits of civil nature except suits of which cognizance is either expressly or impliedly barred. The full bench of the High Court in **Rahim vs Amma** considered in detail the exclusion of the jurisdiction of the civil court as provided under section 36 of the repealed Agrarian Act of 1972. the High Court held that the section forbids the civil court from dealing with or adjudicating upon any question or matter arising under the act or Rules made thereunder. The High Court further held that, however section 36 does not either on its terms or on principle stands as a bar to the exercise of jurisdiction by the High Court under article 226 of the Constitution. Again an order passed by Revenue Officer under the Act can be challenged before a civil court on merits if it was passed in violation of the fundamental provisions of the Act or of fundamental principles of judicial procedure. The court however pointed out certain legal defects in the Act and as a result the state government kept the operation of the Agrarian Act 1972 in suspension. Thereafter the Agrarian Act of 1972 was repealed and Agrarian Act of 1976 was enacted and made enforceable. Section 19 was inserted in the Act, conferring exclusive jurisdiction to the Collector and section 25 was enacted to exclude the jurisdiction of the civil courts to decide or settle any matter or question arising under the Act. A number of

cases in the nature of appeals, revisions and references pending disposal before the High Court were referred to the full bench in **Jugtu vs Badri** as a common question of law of general importance with regard to the interpretation of section 19 and 25 of the Act. The High Court held that , “the language of section 25 leaves no room for doubt that civil courts shall have no jurisdiction to settle, decide or deal with any question or to determine any matter arising under the Act or rules made there under.” By inserting section 19, which did not find place in old Act, the legislature has gone one step further to deprive the Civil and revenue courts of their jurisdiction to hear the matters specified in section 19 (3) (a) to (e). section 19 makes it obligatory on all civil and revenue courts to transfer all pending applications, suits or proceedings of the land specified therein to the collector having jurisdiction in the matter.

The controversial question for consideration was what are, “*all other cases of dispute*” that are referable to the collector and are decided by him under clause (e) of section 19 of the Act. The full bench of the High Court in the above mentioned case held that the words, “*other cases of dispute*” are of wide amplitude and must cover all cases in which right to possess the land is claimed or disputed. The court held that these words can not be construed in limited sense so as to mean only those disputes as have resemblance to disputes enumerated in categories (a) to (d) of sub-section (3). Clause (e) can not be read ejusdem generis with clause (a) to (d) as there is no common genus. Thus all disputes relating to the possession of land whether principally or collaterally or incidentally involved are required to be decided under the Act. However clause (e) will not apply to the suits or proceedings which merely involve determination of question of title without claiming the possession. The high Court in **Sankokh Singh vs Special Tribunal** held that civil courts has no jurisdiction to settle, decide or deal with any matter which had arisen under the Act or Rules.

### **Land Revenue Act 1996 (samvat) (UNIT-II)**

In the year 1923 (1980 Samvat) an important Act, The Jammu and Kashmir Land Revenue Regulation was passed to regulate the land tenure. The Regulations was made to consolidate, amend and declare the land revenue laws in the state. It was sanctioned by His Highness the

Maharaja in Council under resolution No. 16 dated the 13<sup>th</sup> September 1923. Resolution came into force on and from the 1<sup>st</sup> of Poh 1980 and extended to the whole of Jammu and Kashmir State except the following tracts:

- a) The Illaqa of Poonch
- b) The jagir of Bhadarwah and Langet
- c) The jagir of Cheniani and
- d) The estate under the administration of the private department of His Highness the Maharaja Sahib Bahadur.

In the year 1939 the Regulations were re-enacted to amend and consolidate the law on the subject. Thus Jammu and Kashmir Land Revenue Act 1996(1939) was enacted, which is still in force with certain amendments made from time to time. The Act received assent of the Maharaja on 15<sup>th</sup> July 1939 (31<sup>st</sup> Har 1996) and it was published in government gazette dated 29<sup>th</sup> Bhadon, 1996. The Act was made as it was felt expedient to consolidate, amend and declare the law in force in the Jammu and Kashmir State with respect to the making and maintenance of record-of-rights in land, the assessment and collection of the land revenue and other matters relating to land and liabilities incident thereto. The Act repealed the Jammu and Kashmir Land Revenue Regulation 1980(samvat) but saved the actions taken under such Regulations. The act was amended from time to time.

Section 3 of the act defines certain terms which are used in the body of the Act. Section 3 says that unless there is something repugnant in the subject or context

**(1) "Estate" means any area –**

- (a) For which a separate record –of –rights have been made;**
- (b) Which has been separately assessed to land revenue or would have been so assessed if the land revenue had not been assessed, released or compounded for or redeemed; or**
- (c) Which the Government may, by general rule or by special order, declare to be an estate;**

**(2) "land" means land which is occupied or has been let for agricultural purposes or for the purposes subservient to agriculture or for pasture and includes the sites of buildings and other structures situated in such land and trees standing on such land, as well as areas covered by or fields floating over water, and sites of jandars and gharats but does not include the sites of any building in a town or village or any land appurtenant to such building or sites;**

**(3) “land holders” does not include a tenant or assignee of land revenue, but does not include land-owner, chakdar and a person to whom a holding has been transferred or an estate or holding has been let in farm under this Act for the recovery of an arrear of land revenue, or of a sum recoverable as such arrear, and every other person not herein before in this clause mentioned who is in possession of an estate or any share or portion there of, or in the enjoyment of any part of the profits of an estate;**

**(4) “Holding” means a share or portion of an estate hold by one land holder or jointly by two or more land holders;**

**(5) “rent”, “tenant”, “landlord” and “tenancy” have the meanings respectively assigned to those words in the Jammu and Kashmir Tenancy Act, 1980;**

**Landlord** under section 2(6) of the Tenancy Act 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.

**Tenancy** under section 2(8) of the Tenancy Act means a parcel or parcels of land held by a tenant of a landlord under one lease or engagement or one set of conditions. It may comprise land held by a tenant partly in right of occupancy and partly without such right.

**Rent** under section 2(2) of Tenancy Act is defined as what ever is payable to a landlord in money, kind or services by a tenant, on account of the use or occupation of land held by him or on account of the use of water for irrigation.

**Tenant** under section 2(5) of the Tenancy Act means a person who holds land, under the state or under another person and is or but for a special contract in that behalf would be, liable to pay rent for that land to the state or to that person but it does not include;

- a) An inferior landholder or
- b) A person to whom a holding has been transferred or an estate or holding has been let on farm, for the recovery of an arrear of land revenue or of a sum recoverable as such or
- c) A mortgagee of the rights of a landholder

**(6) “Land revenue” includes assigned land revenue and any sum payable in respect of land by way of quit rent or of commutation for service to the Government or to a person to whom the Government has assigned the right to receive the payment;**

**(7) “Arrears of land revenue” means land revenue which remains unpaid after the date on which it becomes payable;**

**(8) “Defaulter” means a person liable for an arrear of land revenue, and includes a person who is responsible as surety for the payment of the arrear [or is a lambardar or a public servant who recovers the land revenue]**

**(9) “Rates and Cesses” means rates and cesses which are primarily payable at land holders and includes –**

**(a) any annual rate chargeable on holders of land under section 56 of the Jammu and Kashmir State Canal and Drainage Act,1963;**

**(b) the Village Officer’s Cesses;**

**(c) the education and road cesses;**

**(d) sums payable on account of village expenses ; and**

**(e) sanitation cess;**

**(10) “Village Cess” includes any cess, contribution or due which is customarily livable within an estate and is neither a payment for the use of private property or personal service, nor imposed by or under any enactment for the time being in force;**

Under section 128 of the Act it is provided that no village cess which is not sanctioned by the government and the levy of which has not e been established by judicial decision shall be levied in any estate by any landlord over and above the rent payable by a tenant [128(1)]. When a record-of-right is being made or revised for an estate or when the local area in which an estate is situate is being generally reassessed or at any other time when an order is made by the government with respect to any estate, an Assistant Collector of the first class has to prepare a list of the village cesses, if any, levied in the estate, which have been generally or specially approved by the government [128(2)]. The government can impose on the collection of any village cess comprised on the list prepared under sub-section 2 such conditions as to expenditure on Police or other establishments connected with the village market or fair as the government may think fit [128(3)]. The government may declare whether any particular cess, contribution or due levied in an estate is or is not a village cess and the said declaration shall be conclusive and a cess or contribution levied in an estate shall cease to be leviable if it is not included in the list of cesses declared leviable by the government [128(4)].

The term cess is commonly employed to connate a tax with a purpose or a tax allocated to a particular thing. However it also means an assessment or levy. Depending on the context and purpose of levy, cess may not be a tax, it may be a fee.

**(11) “Village Officer” means and includes a lambardar;**

**(12) “Revenue Officer” in any provision of this Act means a revenue officer having authority under this Act , to discharge the functions of a revenue officer under that provision;**

**(13) “Muafidar” 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;**

**(14) “Agricultural Year” means as regards the state except the area of Ladakh and Gilgit , the year commencing on the 15th of August, and as regards the Districts of Ladakh and Gilgit the year commencing on 15th of April;**

**(15) “Notification” means a notification published in the official Gazette by authority of a Government;**

**(16) “incumbrance” means a charge upon or claim against land arising out of a private grant or contract;**

**(17) “survey-marks” includes boundary marks;**

**(18) “date of a Regular Settlement” means as regard any state, the date on which the records of the right of the estate , prepared at such settlement was finally attested.**

#### **Classes of Revenue Officers (section 6)**

**1) There shall be the following classes of Revenue officers, namely:-**

**(a) The Financial Commissioner;**

**(b) The Divisional Commissioner;**

**(c) The Collector;**

**(d) The Assistant Collector of the first class;**

**(e) The Assistant Collector of the second class;**

**2) The Deputy Commissioner of a District shall be the collector there of; and an assistant Commissioner and a Tehsildar shall be an Assistant Collector of the first class and a Naib-Tehsildar, an Assistant Collector of the second class.**

**3) Unless the Government issues a notification to the contrary, the jurisdiction of the Financial Commissioner shall extend to the whole of the state and of Divisional Commissioner to the provinces and of collectors and Assistant Collectors to the Districts and Tehsils respectively in which they are employed.**

**4) The government may by notification confer on any person –**

**(a) All or any of the powers of a Financial Commissioner, Divisional Commissioner or collector under this Act; or**

**(b) All or any power with which an Assistant Collector may be invested there under;**

**5) A person on whom powers are conferred under sub-section (4) shall exercise these powers within such local limits and in such classes of cases as the Government may direct and, except as otherwise directed by the Government, shall, for all purposes connected with the exercise thereof, be declared to be a Financial Commissioner, Collector or the Assistant Collector, as the case may be.**

- (5-A) the government may, by notification in the Government Gazette confer on an Assistant Commissioner or the Assistant Settlement Officer the powers of Collector and such collector shall exercise those powers in respect of such cases under this Act or under any other law for the time being in force as may be transferred to him by the collector from time to time.
- (6) The Divisional Commissioner and the collector shall respectively include the settlement commissioner and settlement officer and the Assistant Collector of the first class shall include the Assistant Settlement Officer and the Settlement Tehsildar and Assistant Collector of the second class shall include the Settlement Naib-Tehsildar:

**Provided that, the jurisdiction of Settlement Commissioner, Settlement Officer, Assistant Settlement Officers, Settlement Tehsildars and Naib Tehsildars shall extend only to the tracts under settlement:**

**Provided further that, the officers other than those specified in the first proviso shall, unless otherwise directed by the government, not exercise jurisdiction in regard to cases arising out of Settlement operation.**

Section 6 of the Revenue Act lays down the class of authorities constituted for the performance of powers under the Act. Following authorities has been constituted:-

1. **Financial Commissioner:-** In year 1965 one post of Financial Commissioner for the state was created. The Financial Commissioner is the head of the Revenue Department and his jurisdiction extends to the whole State.

The government may by notification confer on any person all or any of the powers of Financial Commissioner and a person on whom such powers are conferred shall exercise these powers within such local limits and in such classes of cases as the Government may direct and such a person shall, for all purposes connected with the exercise thereof, be declared to be a Financial Commissioner.

2. **Divisional Commissioner:-** in the year 1965 two posts of divisional Commissioner each for Kashmir and Jammu were created. The jurisdiction of the Divisional Commissioner extends over the division. The government may by notification confer on any person all or any of the powers of Divisional Commissioner and a person on whom such powers are conferred shall exercise these powers within such local limits and in such classes of cases as the Government may direct and such a person shall, for all purposes connected with the exercise thereof, be declared to be a Divisional Commissioner.

**3. Collector:-** the head of the revenue administration in the district is the collector (Deputy Commissioner). The general administration of the district vests with the Deputy Commissioner, who for the administrative purposes is under the Divisional Commissioner. He is the head of the district and acts in different capacities. As Deputy Commissioner he is the executive head of the district with multifarious responsibilities relating to development, civil administration, panchayats, local bodies etc. designated as District Development Commissioner. As District Magistrate, he is responsible for law and order in the district and heads the police agency. As Collector, he is the chief officer of the revenue administration and is responsible for the collection of the revenue. He also acts as Chief Election Officer of the district.

**4. Assistant Collector of the First Class:-** the Assistant Commissioner and the Tehsildar are the Assistant Collectors of the first class. Unless the Government issues a notification to the contrary, the jurisdiction of the Assistant Collector extends to the District and Tehsils respectively in which they are employed. The government may, by notification in the government gazette, confer on an assistant commissioner the power of collector and such collector shall exercise those powers in respect of those cases under the Land Revenue Act or any other law for the time being in force as may be transferred to him by the concerned Collector.

**5. Assistant Collector of the second class:-** the Naib Tehsildar is the Assistant Collector of the second class. The naib tehsildar assists the tehsildar in his functions. In fact tehsildar and naib tehsildar are the key officers in the revenue administration. The tehsildar is in charge of the tehsil for the revenue work and is assisted by the Naib tehsildars in his work.

Besides these authorities the sub-section 6 of section 6 lays speaks about the settlement officers it says that the Divisional Commissioner and the collector shall be the Settlement commissioner and Settlement Officer. The assistant Collector of the first class shall include Assistant settlement Officer and the Settlement Tehsildar and the Assistant Collector of the second class shall include the Settlement Naib Tehsildar.

The settlement officer is a revenue officer charged with the duty of making a general re-assessment. While engaged in his work he is also responsible for the continuance and improvement of the regular work of the village record agency. When a notification directing the special revision of existing record of rights is issued by the government he has to carry out the additional operation which such an order entails.

### **Control (section 8)**

**(1) The general superintendence and control over all revenue officers shall be vested with the Government.**

**(2) The Divisional Commissioner, the collector and the Assistant Collector shall be subordinate to and under the control of a Financial Commissioner.**

**(3) Subject to the control of the Financial commissioner, the collectors shall be subordinate to and under the control of a Divisional Commissioner.**

**(4) Subject as aforesaid and to the control of the Divisional Commissioner, all other Revenue officers in his district, shall be subordinate to and under the control of a Collector.**

**(5) Subject as aforesaid and to the control of collector, an assistant collector of a second class shall be subordinate to and under the control of an assistant Collector of the first class.**

The general control over all the revenue officers shall be with the government and then it is the financial commissioner who shall have control over all other officers, then the divisional commissioner have the control over the officers subordinate to him, then collector shall have control over all the revenue officers subordinate to him in his district, then the assistant collector of the first class shall have control over the assistant collector of the second class.

#### **Power to distribute business (section 9)**

Section 9 of the Act deals with the power of the different revenue officers to distribute business among the other revenue officers which are sub-ordinate to him. The section reads as under:-

**(1) The Financial commissioner, the Divisional Commissioner or the collector may by order in writing distribute in such manner as he may thinks fit any business cognizable by any revenue officer under his control.**

**(2) All revenue officers shall exercise the powers vested in them within the local limits of their jurisdiction. An Assistant Commissioner in a District and a Naib-Tehsildar in a Tehsil shall exercise jurisdiction within the whole of the district, or Tehsil as the case may be, subject to such distribution as may be made by the Deputy Commissioner or Tehsildar respectively.**

The financial commissioner, divisional commissioner and the collector has been given power to distribute the business among the officers subordinate to them by an order in writing. Sub-section 2 says that all revenue officers shall exercise the powers vested in them within the local limits of their jurisdiction. The said sub section further says that the Assistant Commissioner in a district and a Naib Tehsildar in a tehsil shall exercise jurisdiction over whole district or tehsil as the case may be subjected to such distribution as may be made by the deputy Commissioner or tehsildar respectively. So we can say that Assistant commissioner and naib tehsildar shall have jurisdiction over whole district or tehsil as the case may be subjected to the distribution of business.

### **Power to withdraw and Transfer cases (section 10)**

Under section 10 of the Act power has been given to the Financial Commissioner, Divisional Commissioner and to the Collector to withdraw any case which is pending before any officer under his control and will either dispose off himself or transfer it to any other officer under his control for disposal. Section 10 reads as under:-

**The Financial Commissioner or a Divisional Commissioner or a Controller may withdraw any case pending before any Revenue Officer under his Control and either dispose of it himself, or by written order refer it for disposal to any other revenue officer under his control.**

### **APPEALS (section 11)**

As we know that there is no general right of appeal from any decision made by any judicial or quasi-judicial authority. Appeal being a statutory right is available only when it is provided under the statute. Section 11 of the Land Revenue Act deals with this right of appeal and reads as under:-

**Save as otherwise provided by this Act, an appeal shall lie from an original or appellate order of a Revenue Officer as follows :-**

- (a) To the collector when the order is made by an Assistant Collector of either class;**
- (b) To the Divisional commissioner when the order is made by the collector;**
- (c) To the financial Commissioner when the order is made by a Divisional Commissioner :**

**Provided That :-**

- (1) when an original order is confirmed on first appeal, no further appeal shall lie except on the grounds mentioned in clauses (a),(b)and (c) of sub-section(1) of section 100 of the Code of Civil Procedure 1977;**
- (2) where any such order is modified or reversed on appeal by the collector, the order made by the Divisional Commissioner on further appeal, if any, to him shall be final.**
- (3) The Government may especially empower an Assistant Collector of the first class to hear appeals against the orders of an Assistant Collector of the second class.**

The section says that an order made by an Assistant collector of either first class or second class shall be appeal able before the Collector. When an order is made by the collector it can be appealed before the Divisional Commissioner and an order made by the Divisional Commissioner shall be appeal able before the Financial Commissioner. But if an original order is confirmed on first appeal there shall be no further appeal except on the grounds mentioned in clause (a), (b) and

(C) of C.P.C. section 100 of the CPC deals with the second appeal and says that an appeal shall lie from any final decree passed in appeal by any court if there is substantial question of law or the decree has been passed in ex-parte. Subsection 2 says that if any order passed by the Assistant Collector of either class is modified or reversed by the collector on appeal, the order made by the Divisional Commissioner on further appeal if any shall be final. If any order is made by the Assistant Collector of either first class or by the second class the order is appeal able before the Collector but under sub-section 3 the government may empower an Assistant collector of first class to hear the appeals from the orders passed by the Assistant collector of the second class.

### **Limitation for appeals, revisions and reviews (section 12)**

**(1) Save as otherwise provided in this Act, the period of limitation of an appeal under the last foregoing section shall be as follows:-**

- a) **When the appeal lie to the collector or an Assistant collector of the first class  
.....60days**
- b) **When an appeal lies to the Financial Commissioner or Divisional  
Commissioner.....90 days**

**Provided that in the districts of Ladakh and Gilgit twice the ordinarily period of limitation for appeals under this section shall be allowed.**

**(2) Such provision of the limitation Act as apply to appeals, applications for revision and review in civil suits shall also apply to appeals, applications for revision and review under this Act.**

The period of limitation for filing of appeal is provided under this section. If the appeal is to be filed before the collector the it should be filed within the 60 days from the passing of the order by the officers subordinate to collector and if it is to be filed before the Divisional Commissioner or before the Financial Commissioner then it should be filed within 90 days from the passing of the final order by the authorities which are subordinate to them. If the appeal is to be filed in the district of Ladakh and Gilgit then, the period of limitation is double. The provisions of the Limitation Act have been made applicable to the appeals filed under this Act. Except for the period within which an appeal is to be filed, the Limitation Act applies here also eg. Whether the delay for not filing the appeal within the time period provided under this Act should be condoned or not on the ground of sufficient cause will be dealt under the Limitation Act.

### **Review and Revisions**

Besides the remedy of appeal to the aggrieved party, the remedy of review and revision has also been conferred upon the person who is aggrieved of an order made by any authority under this Act. Review is made by the authority who has passed the order and the revision is made by the higher authority.

### **Review by Revenue Authority (section 13)**

Section 13 of the Act deals with the review and reads as under:-

- (1) **A revenue officer may, either of his own motion or on the application of any party interested, review and on so reviewing modify, reverse or confirm any order passed by himself or any of his predecessor in office;**

**Provided as follows:-**

- a) **When a Divisional 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 the Collector proposes to review any order, whether passed by himself or any of his predecessor in office, he shall first obtain the sanction of the Revenue Officer to whose control he is immediately subject;**
  - b) **An application for review of an order shall not be entertained unless it is made within 90 days from the passing of the order or unless the applicant satisfies the Revenue Officer that he has sufficient cause for not making the application within that period;**
  - c) **An order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;**
  - d) **An order against which an appeal has been preferred shall not be reviewed.**
- (2) **for purposes of this section, the collector shall be deemed to be successor in office of any Revenue Officer of a lower class who has left the district or has ceased to exercise powers of a Revenue Officer and to whom there is no successor in office.**
- (3) **An appeal shall not lie from an order refusing review or confirming on review a previous order.**

Any revenue officer either of his own motion or on the application of a party may review any order and may either confirm, reverse or modify the order so reviewed. But if the Divisional Commissioner or the collector wants to review any order which has not been passed by him i.e. if the order had been passed by his predecessor, he can not review the order unless he gets the

sanction from the revenue officer which is superior to him. And if any revenue officer who is inferior to that of a collector wants to review any order whether passed by him or by his predecessor, he can do so only after getting the sanction from the officer who is superior to him. The section further says that an order shall not be reviewed unless the application for review is made within 90 days from the passing of the order but if the applicant shows a reasonable cause to the satisfaction of the revenue officer for not filing the application within the stipulated time the application may be entertained even after the expiry of the stipulated time. Further more no order shall be modified or reversed on review unless the parties affected has been given a reasonable opportunity of being heard and lastly no order can be reviewed against which an appeal has been preferred.

#### **Power to revise orders (section 15)**

Section 15 of the Act deals with the revision of the orders made by the any Revenue Authority and reads as under:-

- (1) The Financial Commissioner may at any time call for the record of any case pending before or disposed of by any Revenue Officer under his control.**
- (2) The Divisional Commissioner may call for the record of any case pending before or disposed of by any Revenue Officer subordinate to him.**
- (3) If in any case in which, the Divisional Commissioner has called for a record he is of the opinion that the proceedings taken or order made should be modified or revised he shall report that case with his opinion thereon for the orders of the Financial Commissioner.**
- (4) The Financial Commissioner may, in any case called for by him under sub-section (1) or reported to him under sub-section (3) pass such orders as he thinks fit.**

**Provided that, he shall not under this section pass an order reversing or modifying any proceedings or order of a subordinate officer affecting any question of right between private persons without giving those persons an opportunity of being heard.**

The power of review has been conferred upon all revenue officers with certain limitations but on the contrary the power of revision has been conferred only upon Financial Commissioner and Divisional Commissioner. The section says that the financial commissioner or the divisional commissioner may at any time call for the records of any case pending before or disposed by any revenue officer subordinate to them. But in case if the Divisional Commissioner has called the record of any case and is of the opinion that any order made should be modified or revised he

shall report that case to the financial commissioner along with his opinion. The financial commissioner may for cases called by him under sub-section (1) or reported to him under sub-section (3) pass such orders as he thinks fit provided he shall not pass an order reversing or modifying any order of a subordinate officer affecting any question of right between private persons without giving those persons an opportunity of being heard.

**Power of revenue Officers to Summon persons (section 15-A)**

- (1) A Revenue Officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a revenue officer.**
- (2) A person so summoned shall be bound to appear at the time and place mentioned in the summon in person or if the summons so allows, by his recognized agent or by a legal practitioner holding authority granted by the High Court to appear and act in civil courts.**
- (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 may require.**

Under section 15-A power has been conferred upon the revenue officers to summon any person whose presence he considers necessary for the proper conduct of the business before him. The person so summoned shall be bound to appear at the time and place mentioned in the summon either in:-

- a) Person or
- b) If the summon allows by his recognized agent or
- c) By a legal practitioner who is holding authority granted by the High Court to appear and act in civil court.

The person so attending shall be bound to state truth upon any matter with respect to which he is examined and make statements and to produce such documents and other things relating to any such matter as the revenue officer may require.

**Modes of service of summon (section 15-B)**

- (1) A summon issued by Revenue officer shall, if practicable, be served:-**
  - a) Personally on the person to whom it is addressed or failing him;**
  - b) On his recognized agent or;**

- c) **On an adult male member of his family usually residing with him.**
- (2) **If service can not be so made or if acceptance of service so made is refused, the summon may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed or if that person does not reside in the district in which the revenue officer is employed and the case to which the summon relates has reference to land in that district, then by posting a copy of the summon on some conspicuous place in or near the estate wherein land is situate.**
- (3) **If the summon relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the revenue officer so directs, be served by delivery of a copy thereof to such of those persons as the revenue officer nominate in this behalf, and by proclamation of the contents thereof for the information of the other persons interested.**
- (4) **A summon may, if the revenue officer so directs, be served on the person named therein, either in addition to or in substitution for any other mode of service, by forwarding the summon by post in a letter addressed to the person and registered under the Indian Post Office Act 1898.**
- (5) **When a summon is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the revenue officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.**

Section 15-B of the Act lays down the procedure for the service of summons. It says that a summons issued by any revenue officer shall be served, if practicable:-

- a) Personally on the person to whom it is addressed or failing him
- b) On his recognized agent or
- c) On an adult male member of his family usually residing with him

If the service can not be so made or the service of summon is refused, the summon may be served by posting a copy at the usual or last known place of residence of the person to whom it is addressed. If the person upon whom the summon is to be served does not reside in the district in which the revenue officer is employed and the case to which the summon relates has reference to land in that district then the service of summon may be made by posting a copy of the summon on some conspicuous place in or near the estate wherein land is situated. If the summon relates to a case in which the persons having interest are so many that personal service is not possible upon all of them, then summon may be served to such persons as the revenue officers directs and for the information of those, upon whom the summon is not served, a proclamation of the contents of

the summon shall be made. Summon may be served by forwarding a copy by post in a letter addressed to the person and registered under the Indian Post Office Act either in addition to or in substitution of above modes stated.

**Mode of service of notice, order or proclamation or copy thereof (section 15-C)**

**A notice, order or proclamation or copy of any such document issued by a Revenue Officer for service on any person shall be served in the manner provided in the last forgoing section for the service of the summon.**

If any notice, order or proclamation or copy of any such document issued by a Revenue Officer is to be served upon any person, it may be made by any manner provided under section 15-B of the Act.

**Mode of making proclamation (section 15-D)**

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

**Persons by whom appearances and applications may be made before and to Revenue Officers (section 16)**

Section 16 of the Act lays down the categories of persons by whom applications or appearances may be made to any Revenue Officer and reads as under:-

- (1) appearances before a Revenue officer and applications to and acts to be done before him under this Act, may be made or done-**
- a) by parties themselves, or**
  - b) by person holding general or special powers of attorney on behalf of such party, or**
  - c) by any class of legal practitioners holding authority granted by the High Court to act and appear in civil court**

**Provided that, any revenue officer may, in any case for reasons to be recorded by him, require the personal attendance of any party;**

**Provided also that no pardah-nashin lady or person who is exempted from personal appearance in a civil court shall be required to appear in person;**

**Provided further that when the Financial Commissioner or the settlement commissioner is holding office in a province other than the one to which an appeal, review or revision pertains, such appeal, review or revision may be presented before a local Revenue Officer of the highest rank at the station for transmission to Financial Commissioner or the Settlement Commissioner as the case may be.**

**d) By such class of retired Revenue Officers not below the rank of a Tehsildar who has functioned as such for a period of not less than ten years and is conversant with laws relating to the Revenue Department holding license issued by such authority, in such manner, subjected to such condition and on payment of such fees as may be prescribed by rules made by the Government.**

Section 16 of the Act lays down the categories of persons who may appear or make applications before the revenue officers. Following persons may appear:-

- A. Parties themselves
- B. By person holding general or special power of attorney on behalf of such party
- C. By any legal practitioner having authority

Any revenue officer in any case may require the personal attendance of any party for reasons to be recorded. But the pardha-nashin lady or persons who are exempted from personal appearance in a civil court under CPC are not to appear in person before the revenue authorities. Section 133 of the CPC says that the government may by notification in the government gazette, exempt from personal appearance in the court any person whose rank in the opinion of the government entitles him to the previlage of exemption. The names and residence of the persons so exempted shall be forwarded to the High Court by the government and a list of such persons shall be kept in such court, and a list of such persons as reside within the local limits of the jurisdiction of each court sub-ordinate to the High Court shall be kept in such subordinate court.

#### **Place of sitting (section 17)**

**A revenue officer may for the exercise of his powers under this Act sit at any place within the local limits of his jurisdiction.**

#### **Holidays (section 18)**

**Any proceedings of the revenue officer held on a day declared to be a holiday shall not be invalid by reason only of the fact that it was held on such day.**

#### **Retention of powers by revenue officer on transfer (section 19)**

**When a revenue officer of any class who has been invested under the forgoing provisions of this Act with any powers to be exercised in any local area is transferred from that local area to another as a revenue officer of the same or a higher class, he shall continue to exercise those powers in that other local area unless the government otherwise directs.**

#### **Power to refer for enquiry and report (section 19-A)**

**A revenue officer may refer a case which he is empowered to dispose of under this Act to another revenue officer subordinate to him for enquiry and report and may decide the case upon such enquiry and report.**