

**JUDGMENT SHEET**  
**LAHORE HIGH COURT, LAHORE**

**JUDICIAL DEPARTMENT**

**W. P. No. 55591 / 2022**

Syed Zawar Raza

**Versus**

Member, Board of Revenue, Punjab, etc.

**JUDGMENT**

<b>Date of Hearing:</b>	08.05.2024
<b>Petitioner By:</b>	Mr. Maqbool Hussain Sheikh, Advocate
<b>Respondents By:</b>	Mr. Sikandar Nisar Saroya, A.A.G.
<b>Assisted by:</b>	Sher Hassan Pervez, Research Officer

**ABID HUSSAIN CHATTHA, J:** The Petitioner was constrained to institute the titled Petition when he was denied provision of certified copies of RL-II No. 26 and 46 by the functionaries of the Board of Revenue, Punjab. Resort by the Petitioner to the Punjab Transparency and Right to Information Act, 2013 (the “Information Act”) for this purpose also remained a futile exercise. Accordingly, the Petitioner seeks a direction to the Respondents for acceptance of his request qua issuance of relevant extracts of certified copies of Form RL-II Register.

2. Learned Law Officer has relied upon detailed reply of the Respondents to argue that officials of the Board of Revenue, Punjab are lawfully empowered to deny issuance of certified copies of RL-II. It is stated that historically, Registers in RL-II Form were prepared and maintained with respect to allotment and disposal of agricultural lands to displaced persons who had migrated from India to Pakistan by way of settlement schemes through which permanent rights over the lands were conferred on claimants under the provisions of the Displaced Persons (Land Settlement) Act, 1958 (the “Settlement Act”). The basic settlement scheme was introduced under the Pakistan Rehabilitation Act, 1956 (the

“**Rehabilitation Act**”) known as the West Pakistan Rehabilitation Settlement Scheme (the “**Scheme**”) in order to allot agricultural lands after verification of claims. Registers in RL-II Form were prepared containing various entries pertaining to the claims, particulars of land and measurement, etc. The process of preparing such Registers entailed verifications, objections of claimants, proposals and final allotments. Para Nos. 60 and 63 of the Scheme provided for supply of copies of entries of RL-II to the claimants and upon finalization of process, Registers were prepared in Form RL-II under Para 70 of the Scheme. As such, the settlement Authorities were performing acts and maintaining record including RL-II Registers under the applicable settlement laws and settlement schemes prescribed thereunder. Accordingly, inspection of record and supply of copies of RL-II to the allottees conferring rights to them or displaced persons were regulated by law and governing provisions of the settlement schemes. Therefore, the question of issuing certified copy of RL-II is liable to be considered in light of the applicable settlement laws and the settlement schemes.

**3.** In the Year 1973, the Chief Settlement & Rehabilitation Commissioner, Punjab in pursuance of the decision of Federal Government, ordered to stop allotment of rural evacuee agricultural land and in this regard, communicated necessary instructions to all relevant Commissioners / revenue officers in Punjab vide letter No. 2319-73/2022-R(L) dated 25.06.1973. Through this letter, it was directed, *inter alia*, that all RL-II Registers in the field be consigned with the relevant Commissioners under their personal custody. It was further directed that the last entry of each Register be signed and thereafter sealed.

**4.** The aforesaid decision was followed by the enactment of the Evacuee Property and Displaced Persons Laws (Repeal) Act, 1975 (the “**Repeal Act**”), whereby, various laws relating to rehabilitation and settlement conferring powers of allotment of evacuee property were repealed w.e.f. 01.07.1974. Under Section 2(2) of the Repeal Act, all pending proceedings stood transferred for final disposal to the officers notified by the Government. All assets, liabilities and properties available

for disposal in terms of the Repeal Act stood transferred to the Board of Revenue, Punjab. Moreover, as per Section 4 thereof, all work regarding documentation of properties also stood transferred to the Board of Revenue, Punjab.

5. Following the Repeal Act, another memorandum bearing No. 1524/75/854-R(L) dated 19.06.1978 was issued to all relevant Commissioners / revenue officers to communicate instructions of the Chief Settlement Commissioner / Member, Board of Revenue (Settlement & Rehabilitation), Punjab. It was directed that any allotment which has not been incorporated in the revenue record before coming into force of the Repeal Act or within one year of passing of allotment order (whichever is later) may be deemed to have been fraudulently obtained by ante-dating the entries in RL-II Registers and should be cancelled forthwith.

6. Subsequently, the Member, Board of Revenue, Punjab issued letter No. 3595-84/2398-51 dated 12.12.1984, whereby, it was noted that after the Repeal Act all confirmed *khatas* in RL-II Registers have already been mutated and ultimately incorporated in the regular Registers with relevant entries in *Haqdaran-e-Zamin*, etc., therefore, RL-II Registers have lost their importance as a public document. Moreover, since RL-II Registers had remained in the custody of revenue officers, junior to the relevant Commissioners for an extended period, there was a very real possibility that entries in RL-II Registers might have been interpolated and tempered extensively. In these circumstances, all Deputy Commissioners were directed to advise the Assistant Commissioners under their jurisdiction to discourage the issuance of copies of RL-II Registers. However, on the requisition of a directly interested party, the whole Register could be produced in original by a duly authorized official as and when required, if relevant copies are required for production in a Court of law.

7. The Repeal Act has recently been amended to the extent of the Province of Punjab through enactment of the Evacuee Property and Displaced Persons Laws (Repeal) (Amendment) Act, 2022 (the "Amendment Act"). Accordingly, the jurisdiction qua all pending

proceedings before the notified officer / Chief Settlement Commissioner under Section 2(2) of the Repeal Act has been taken away w.e.f. 26.09.2022 and exclusively vested with the Full Board consisting of three Members of the Board of Revenue, Punjab constituted by the Senior Member, Board of Revenue, Punjab from time to time.

**8.** Since the jurisdiction with respect to all settlement matters under the Repeal Act as amended through the Amendment Act vests only with the Full Board, the matter regarding provision of certified copies to the Petitioner was placed before the Full Board headed by the Senior Member, Board of Revenue, Punjab in its meeting held on 13.01.2023 under Agenda Item No. 3 which was examined and accordingly rejected.

**9.** In compliance with the Order dated 04.10.2023 passed by this Court, the Senior Member, Board of Revenue, Punjab on 02.01.2024, constituted a six-member committee to review the matter regarding provision of copies of RL-II Register with specific terms of reference i.e. (i) under which provision of law, certified copies of RL-II Register are being refused to the Petitioner; and (ii) what are the reasons and background for such refusal. The committee held its meeting on 17.01.2024 and it was unanimously decided through recorded minutes of meeting that since the RL-II Registers are sealed and an archived record owing to the past practices of tempering and interpolation, therefore, opening of sealed RL-II Registers runs the risk of further tempering and manipulations. As such, sealed RL-II Registers can neither be opened nor certified copies thereof be issued under the law for the reasons that the applicable settlement laws stand repealed and after enactment of the Amendment Act, the limited jurisdiction of inquiry with respect to the settlement matters exclusively vests with the Full Board of Revenue which can open the record in connection with an inquiry and / or allow the sealed record to be produced before the Superior Courts in sealed form upon requisition.

**10.** Similarly, the Board of Revenue, Punjab vide letters dated 24.07.2023 and 15.06.2013, has issued necessary instructions, as also conveyed to Deputy Commissioner, Narowal through letter dated

08.01.2024 that upon repeal of settlement laws, the scope of dealing with specific pending matters relating to settlement is very limited and only in cases falling within that limited scope, the record of RL-II Registers can be de-sealed subject to approval and issuance of certified copies thereof is not permissible. The said instructions include the instructions as regards the implementation of decrees of Civil Courts in the light of Judgments of the Superior Courts and production of sealed record in the Courts.

**11.** Therefore, the provisions of law encapsulated in the Repeal Act as amended by the Amendment Act and the instructions / policies issued thereunder from time to time do not permit issuance of certified copy of RL-II Registers, rather, the same put a clog thereon any further as the status of RL-II Registers is no more than of a public document. After analyzing the entire scheme of law, the committee concluded that since RL-II Registers have been archived having been sealed and kept under lock since 1973, therefore, they no longer constitute public record. As such, the practice of their use and issuance of certified copies was conscientiously replaced with production of the entire original sealed record in a Court of competent jurisdiction, if so required. The policy directives were lawfully and validly issued by the competent authorities at the relevant times and have remained in the field for decades since their issuance. Hence, the jurisdiction to de-seal RL-II Registers now exclusively vests with the Full Board which has lawfully considered and regretted the request of the Petitioner regarding issuance of certified copy of RL-II Registers under the Repeal Act as amended through the Amendment Act and on the basis of the policy directives which have been in force for over half a century.

**12.** Public documents are defined and prescribed in Article 85 of the Qanun-e-Shahadat Order, 1984 (the “QSO”). In terms of Article 87 thereof, certified copies of public documents are issued in the prescribed manner to any person having right to inspect the same. RL-II Registers conferring rights on the claimants were prepared and maintained under the governing settlement laws and settlement schemes. Hence, the same fell in the category of ‘public documents’ under Article 85(4) of the QSO which were required to be maintained under the law. Upon repeal of the

settlement laws through the Repeal Act read with the Amendment Act, the preparation and maintenance of RL-II Registers stood abolished. The powers and authorization of the settlement Authorities under the Repeal Act read with the Amendment Act with respect to settlement matters and maintenance of record also stood revoked. The outcome and culminating effect of the entries contained in RL-II Registers have now become past and closed transactions since confirmed allotments have been duly incorporated or mutated in the regular Registers or revenue record in shape of confirmed *Khatas*. At the same time, the previously maintained record of RL-II Registers has also been sealed in order to avoid any future misuse, interpolation or manipulation. Therefore, the RL-II Registers being not maintained any more under the law, do not constitute public documents under Article 85(4) of the QSO. Hence, issuance of any certified copy of RL-II Registers by the Respondents is neither mandated nor permissible under the law.

**13.** Under the provisions of the Repeal Act read with the Amendment Act, conferring of rights over an agricultural evacuee land by way of settlement has come to an absolute end and there exists no legally enforceable right to settlement. Even the pending proceedings under Settlement Act stand abated under Section 2-B of the Repeal Act as inserted through the Amendment Act. The proviso thereto permits continuation of only those proceedings which involve cancellation of adjustment, allotment or utilization of land made against pending claims after 01.07.1974 and jurisdiction in relation to the same can only be exercised by Full Board of the Board of Revenue, Punjab. Hence, in the absence of any legal right as to the RL-II Registers and inspection thereof, the Petitioner cannot seek issuance of certified copy thereof under the law. It is submitted, without conceding in any manner, that even if the Petitioner is entitled to be treated in accordance with the exceptions provided in the Repeal Act read with the Amendment Act, the relevant RL-II Registers may be de-sealed during the course of inquiry by the Full Board of the Board of Revenue, Punjab in exercise of its limited jurisdiction under the law and / or the record may be produced in sealed form before any Court of

law having jurisdiction in this regard. However, in any case, a certified copy of RL-II Registers, conferring settlement right on Petitioner, cannot be issued to him, at present, under the governing law. Therefore, in the circumstances when RL-II Registers do not constitute public document and the Petitioner has no right to inspect the same upon abolishing of such right, this Petition seeking direction from this Court in this regard is liable to be dismissed.

**14.** Given the scheme of law as explained above, in the absence of any proceedings pending with respect to any entitlement of the Petitioner within the limited exceptions under the Repeal Act as amended through the Amendment Act, the Petitioner has no *locus standi* to institute this Petition. Besides absence of any legal right of the Petitioner to get certified copy of RL-II Registers and corresponding legal obligation of the Respondents in this regard, he is not entitled for any discretionary relief as he has not come to the Court with clean hands. Notwithstanding the exceptions as to any proceedings relating to the settlement, there are no proceedings of any kind which are pending with respect to any claim and entitlement of the Petitioner. If there were proceedings initiated or pending, the sealed record could be inspected by the competent authority or produced before any Court of law in the sealed form. However, the Petitioner is trying to get a certified copy of a document conferring right or entitlement on him under the garb of public document which is unwarranted in law. Hence, this Petition is liable to be dismissed on this score alone.

**15.** This Petition is also hit by the availability of an efficacious alternate remedy to the Petitioner. As explained above, the grievance and right or entitlement of the Petitioner, if any, without conceding, can be addressed during the course of any proceedings within the legal exceptions under the law i.e. the Repeal Act read with the Amendment Act as the relevant RL-II Registers may be de-sealed or inspected by the competent authority or any Court of law in connection with the inquiry or any proceedings. The inspection of sealed record for the purposes of any inquiry or judicial determination is distinct and different from an independent right of seeking issuance of certified copy of RL-II Registers.

Hence, the Petitioner has an alternate remedy for his grievance, if any, and the titled Petition is not maintainable.

**16.** The moot point involved in this Petition is as to whether Forms in RL-II Registers constitute public record or not and whether certified copies thereof can be lawfully refused by the Respondents?

**17.** The State of Pakistan after its creation embarked upon a strenuous and arduous journey to settle and rehabilitate refugees who had migrated from India. In the process various settlement laws were promulgated and settlement schemes were prescribed thereunder to achieve the objective. Agricultural evacuee lands were, accordingly, allotted to entitled persons against verified claims. The basic Scheme was introduced under the Rehabilitation Act. Comprehensive mechanism was put in place under the Scheme entailing various steps ranging from receipt and verification of claims, receiving and determination of objections, raising of proposals and conferring allotments on provisional basis culminating into permanent allotments. Various Registers in Forms were prescribed to incorporate various entries corresponding to multiple phases in the allotment process. Para 60-61 of the Scheme prescribed the Register in Form RL-I (Appendix III) for recording of entries of receipt of verified claims, receipt and disposal of objections in relation to *Fard-i-Haqiat*. Para 63 of the Scheme prescribed Form of RL-II (Appendix V) called the Provisional Permanent Allotment Register for recording of verified claims and details of allotment and disposal of agricultural lands to displaced persons. Column 10 thereof relates to area permanently allotted with index units. Para 63 read with Para 60 of the Scheme also confers the right of inspection to obtain certified copies of extracts of RL-I and II Registers as per Para 3.48(1), Note 2 and 3.48(3) of the Land Records Manual. Para 63 declares that entries in RL-II Registers form the basic record of the rehabilitation settlement work. As such, ownership rights were conferred upon the allottees. Therefore, the entries contained in Form RL-II Registers constitute the basis of title with respect to allotted agricultural lands under settlement laws and settlement schemes prescribed thereunder, notwithstanding that such entries had been recorded, incorporated or

mutated in subsequent revenue record in relevant registers which is being maintained regularly.

**18.** The Repeal Act came into effect on 01.07.1974. Section 2 of the Repeal Act repealed the Registration of Claims (Displaced Persons) Act 1956; the Rehabilitation Act; the Pakistan (Administration of Evacuee Property) Act, 1957; the Displaced Persons (Compensation and Rehabilitation) Act, 1958; the Settlement Act; the Scrutiny of Claims (Evacuee Property) Regulation, 1961; and the Price of Evacuee Property and Public Dues (Recovery) Regulation, 1971. Section 2(2) of the Repeal Act transferred all pending proceedings before the Authorities or cases remanded by the Superior Courts to notified officers which were required to be decided in accordance with the provisions of the repealed Acts and Regulations under Section 2(1) thereof as mandated by Section 2(3) thereof. The obligation of execution of final orders was placed upon the Board of Revenue under Section 2(4) of the Repeal Act in accordance with the provisions of the said repealed Acts and Regulations. After the devolution of powers under the Constitution (Eighteenth Amendment) Act, 2010, the Repeal Act which was in Federal ambit was adapted with certain amendments by the Province of the Punjab through the Evacuee Property and Displaced Persons Laws (Repeal) (Amendment) Act, 2012. Later, further amendments were introduced in the Repeal Act through the Amendment Act. Accordingly, the pending proceedings and remanded cases from the Superior Courts were transferred from the notified officers to the Full Board of the Board of Revenue, Punjab which were required to be decided in accordance with the provisions of the said repealed Acts and Regulations. Conspicuously, Sections 2-A and 2-B were inserted in the Repeal Act by the Amendment Act. Section 2-A of the Amendment Act provides that all properties allotted after the repeal of the Acts and Regulations mentioned in Section 2(1) of the Repeal Act shall be subject to scrutiny at any time, and after observing due process of law, if it is found that any land or property was allotted in contravention of any law or through fraud, forgery or misrepresentation, such allotment shall be cancelled. Further, Section 2-B of the Amendment Act provides that all

proceedings before the commencement of the Repeal Act in relation to adjustment, allotment or utilization of former evacuee land against verified claims of produce index units of claimants before notified officers shall stand abated provided that such proceedings in relation to adjustment, allotment or utilization of land made against pending claims of produce index units after 01.07.1974 in contravention of law shall not stand abated and shall be decided in accordance with law. Under Sections 3 and 4 of the Repeal Act as amended through the Amendment Act, all properties available for disposal before the repeal of the Acts and Regulations under Section 2(1) thereof or which may become available for disposal after such repeal due to cancellation of any fraudulent allotment shall stand transferred to the Government for utilization for public purposes. Similarly, all work regarding documentation of properties also stood transferred to the Board of Revenue, Punjab. It is obvious from the above that there is no provision in the Repeal Act as amended by the Amendment Act which in any manner changes or alters or disregards the nature or character of public record of documents kept or maintained under the repealed Acts and Regulations under Section 2(1) thereof including RL-II Registers or in any manner whatsoever empowers or mandates the Government or the Board of Revenue Punjab including its Full Board to disregard the sanctity of such public record or in any manner whatsoever affects the right to inspect and take certified copies of such public record.

**19.** Article 85 of the QSO lists various categories of documents which are categorized as public documents. Article 85(1) thereof stipulates that all documents forming the acts or records of the acts of the sovereign authority; of official bodies and tribunals; and of public officers, legislative, judicial and executive of any part of Pakistan or of a foreign country are public documents. Article 85(2) thereof states that public records kept in Pakistan of private documents are also public documents. Article 85(4) thereof provides that documents required to be maintained by a public servant under any law are public documents. Article 87 thereof mandates that every public officer having custody of a public document, which any person has a right to inspect, shall give that person on demand a

copy of it on payment of the legal fees therefor, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal, and such copies so certified shall be called certified copies. In addition, certified copies of public records can also be obtained under the provisions of the Punjab Copying Fees Act, 1936 and the rules for the supply of copies of records under the control of Deputy Commissioners and Commissioners in accordance with the procedure prescribed therein. Therefore, it is unequivocally established that public documents kept by public bodies, public servants and executive constitute public record notwithstanding that it is not being maintained. Hence, the contention that RL-II Registers being no longer maintained after the repeal of settlement laws have lost their efficacy and as such, do not constitute public record is a fallacy.

**20.** Article 19-A of the Constitution of the Islamic Republic of Pakistan, 1973 unequivocally confers the right to information as a fundamental right to every citizen to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law. The Information Act was promulgated to give effect to the fundamental right for access to information in the Province of the Punjab. As per Section 2(j) thereof, the ‘right to information’ includes the right to inspect and obtain certified copy of a document of a public body. Section 10 thereof invariably confers the right to information to any applicant and Section 10(3) specifically proclaims that an applicant shall not be required to provide reasons for request to information and shall only be required to provide an adequate description of the information and the details necessary to provide the requisite information. Such an application can only be refused where disclosure of information falls in any of the exception enumerated in Section 13 thereof. Needless to state that none of the exceptions listed in Section 13 thereof is attracted qua issuance of certified copies of Form RL-II. Section 24(1) further states that the

provisions of the Information Act shall take precedence over the provisions of any other law while Section 24(2) clarifies that an exception mentioned in Section 13 shall take precedence and any exception or limitation in any other law on right to information may not be construed to extend the scope of the exception in the Information Act, although such provision in other law may elaborate on the exception mentioned in Section 13.

**21.** It follows from the above that public record under the repealed settlement laws including entries incorporated in Forms / RL-II Registers is public record for all intents and purposes. No provision of law has been cited by the Respondents which disregards revenue entries incorporated in RL-II Registers and replaces it with any fresh record with the caveat that record based on RL-II Registers does not constitute public record or extinguish the right to inspect or obtain certified copies thereof or changes or alters the character or nature of such record or declares the same as achieved or classified record or permits permanent sealing of the same. As such, the Board of Revenue, Punjab has no lawful authority to permanently seal, change or alter the nature and character of public record including RL-II Registers or outrightly refuse, deny the right to inspect or obtain certified copies thereof applied by any person in accordance with law.

**22.** This is notwithstanding that the Federal Government decided to stop allotment of rural evacuee agricultural land vide letter dated 25.06.1973 or that limited rights with respect to repealed settlement laws qua pending proceedings are protected under the Repeal Act read with the Amendment Act or that all confirmed *khatas* in RL-II Registers have already been mutated and incorporated in subsequent revenue record. Therefore, none of the reasons mentioned in the instructions of the Board of Revenue, Punjab contained in letters dated 25.06.1973, 19.06.1978, 12.12.1984, 15.06.2013, 24.07.2023 and 08.01.2024 and in decisions of the Full Board of the Board of Revenue, Punjab dated 13.01.2023 and 17.01.2024 for denial of certified copies of RL-II Registers such as repeal of settlement laws, limited existence of rights under the repealed settlement laws, sealing of record due to non-authenticity of entries, possibility of interpolation and tempering in the record and opening of a floodgate of

requests of issuance of certified copies of RL-II Registers can be made basis for denial of right of inspection and obtaining of certified copies of public record simply because access to public record by way of inspection and right to obtain certified copies cannot be clogged, curtailed or prohibited by any functionary of a public body. This is particularly so when the entries contained in RL-II Registers constitute basis of ownership rights. As such, it is not the mandate of custodian of record to undertake a fishing exercise into the need or purpose of a person who has applied for certified copies of a document constituting public record, as the same is specifically prohibited under Section 10(3) of the Information Act. The purpose may be as benign as to conduct due diligence of a particular property or requiring a certified copy against lost record. Therefore, the contention that the entire sealed RL-II Register can be produced in original before a Court of law is grossly misconceived since a person may require to inspect and obtain certified copy thereof who has no nexus with a pending proceeding in a Court of law. Hence, the Respondents or the Full Board of the Board of Revenue, Punjab grossly fell in error by inferring on their own by interpreting the Repeal Act read with Amendment Act that they are no more obliged or under a legal duty to issue certified copies of RL-II Registers. Suffice is to hold that interpretation of laws is the sole prerogative of the Superior Courts which does not fall in the domain of the executive.

**23.** There is no cavil to the proposition that the Repeal Act read with Amendment Act vests the jurisdiction qua all settlement matters with the Full Board of the Board of Revenue, Punjab. As such, the Full Board of the Board of Revenue, Punjab may adopt a suitable mechanism and means to de-seal, secure and preserve RL-II Registers in the present form manually or by digitalizing such record and prescribe a reasonable mechanism for inspection and issuance of certified copies thereof but cannot outrightly deny or refuse the same.

**24.** The objection of the Respondents that the Petitioner has no *locus standi* to institute this Petition is without any basis as any person can apply for a certified copy of public record and such person cannot be

deprived from his legal and constitutional right. Needless to state that the Petitioner had no efficacious remedy to redress his grievance when his request and endeavor to obtain certified copies of RL-II Registers had been declined by the Respondents before the institution and even during pendency of this Petition and resort to the Information Act was also met with failure.

**25.** In view of the above, this Petition is allowed and the Respondents are directed to issue certified copies of RL-II Registers as applied for by the Petitioner within a period of 30 days from the date of this Judgment.

**(Abid Hussain Chattha)**  
**Judge**

Announced in Open Court on 22.05.2024.

**Judge**  
Approved for reporting.

**Judge**

\**Ahsan*