

CHAPTER XII.

PROCEDURE OF REVENUE OFFICERS.

224. In all official act and proceedings revenue officer shall, in the absence of any express provision of law or any rule made thereunder to the contrary, be subject as to the place, time and manner of performing his duties to the direction and control of the officer to whom he is subordinate.

Subordination
of revenue
officers.

225. Whenever it appears to the State Government that an order under this section is expedient for the ends of justice, it may direct that any particular case be transferred from one revenue officer to another revenue officer of an equal or superior rank in same district or any other district.

Power to
transfer
cases.

226. (1) A Commissioner, a Collector, a Sub-Divisional Officer or a Tahsildar may make over any case or class of cases, arising under the provisions of this Code or any other enactment for the time being in force, for decision from his own file to any revenue officer subordinate to him competent to decide such case or class of cases or may withdraw any case or class of cases from any such revenue officer and may deal with such case or class of cases himself or refer the same for disposal to any other revenue officer competent to decide such case or class of cases.

Power to
transfer cases
to and from
subordinates.

(2) A Commissioner, a Collector, a sub-Divisional Officer, or a Tahsildar may make over for inquiry and report any case or class of cases arising under the provisions of this Code or any other enactment for the time being in force from his own file to any revenue officer subordinate to him.

227. (1) Every revenue or survey officer not below the rank of an *Aval Karkun* or a District Inspector of Land Records in their respective departments shall have power to summon any person whose attendance he considers necessary either to be examined as a party or to give evidence as a witness, or to produce documents for the purposes of any inquiry which such officer is legally empowered to make. A summons to produce documents may be for the production of certain specified documents for or the production of all documents of a certain description in the possession of the person summoned.

Power to
summon
persons to
give evidence
and produce
documents.

V of 1908. (2) Subject to the provisions of sections 132 and 133 of the Code of Civil Procedure, 1908, all persons so summoned shall be bound to attend, either in person or by an authorised agent, as such officer may direct.

(3) All persons summoned as aforesaid shall be bound to state the truth upon any subject respecting which they are examined or make statements and to produce such documents and other things as may be required.

228. (1) Every summons shall be in writing in duplicate, and shall state the purpose for which it is issued and shall be signed by the officer issuing it, and if he has a seal shall also bear his seal.

Summons to
be in writing,
signed and
sealed ;
service of
summons.

(2) The summons shall be served by tendering or delivering a copy of it to the person summoned or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence.

(3) If his usual residence be in another district, the summons may be sent by post to the Collector of that district, who shall cause it to be served in accordance with the provisions of sub-section (2).

Compelling
attendance of
witness.

229. If any person on whom a summons to attend as witness or to produce any documents has been served fails to comply with the summons, the officer by whom the summons is issued under section 227 may,—

- (a) issues a bailable warrant of arrest ;
- (b) order him to furnish security for appearance ; or
- (c) impose upon him a fine not exceeding fifty rupees.

Mode of
serving
notice.

230. (1) Subject to the provisions of this code and the rules made thereunder, every notice under this Code may be served either by tendering or delivering a copy thereof, or sending such copy by post to the person on whom it is to be served or his authorised agent, or if service in the manner aforesaid cannot be made, by affixing a copy thereof at his last known place of residence or at some place of public resort in the village in which the land to which the notice relates is situated or from which the land is cultivated.

(2) No such notice shall be deemed void on account of any error in the name or designation of any person, or in the description of any land, referred to therein, unless such error has produced substantial injustice.

Procedure
for producing
attendance
of witnesses.

231. In any formal or summary inquiry if any party desires the attendance of witnesses he shall follow the procedure prescribed by the Code of Civil Procedure, 1908, for parties applying for summons for witnesses.

V of
1908.

Hearing in
absence of
party.

232. (1) If on the date fixed for hearing a case or proceeding, a revenue officer or survey officer finds that summons or notice was not served on any party due to the failure of the opposite party to pay the requisite process fees for such service, the case or proceeding may be dismissed in default of payment of such process fees.

(2) If any party to a case or proceeding before the revenue officer or survey officer does not appear on the date fixed for hearing, the case may be heard and determined in his absence or may be dismissed in default.

(3) The party against whom any order is passed under sub-section (1) or (2) may apply within thirty days from the date of such order to have it set aside on the ground that he was prevented by any sufficient cause from paying the requisite 'process fees' for service of a summons or notice on the opposite party or from appearing at the hearing and the revenue officer or survey officer may, after notice to the opposite party which was present on the date on which such order was passed and after making such inquiry as he considers necessary set aside the order passed.

(4) Where an application filed under sub-section (3) is rejected, the party aggrieved may file an appeal to the authority to whom an appeal lies from an original order passed by such officer.

(5) Except as provided in sub-section (4) or except where a case or proceeding before any such officer has been decided on merits, no appeal shall lie from an order passed under this section.

233. (1) A revenue or survey officer may, from time to time, for reasons to be recorded, adjourn the hearing of a case or proceeding before him.

Adjournment
of hearing.

(2) The date and place of an adjourned hearing of a case or proceeding shall be intimated at the time of the adjournment to such of the parties and witnesses as are present.

234. (1) In all formal inquiries the evidence shall be taken down in full, in writing, in Marathi, by or in the presence and hearing and under the personal superintendence and direction of, the officer making the investigation or inquiry, and shall be signed by him. The officer shall read out or cause to be read out the evidence so taken to the witness and obtain his signature thereto in token of its correctness.

Mode of
taking
evidence in
formal
inquiries.

(2) In cases in which the evidence is not taken down in full in writing by the officer making the inquiry he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes ; and such memorandum shall be written and signed by such officer with his own hand, and shall form part of the record.

(3) If such officer is prevented from making a memorandum as required aforeside, he shall record the reason of his inability to do so.

(4) When the evidence is given in English, such officer may take it down in that language with his own hand, and an authenticated translation of the same in Marathi shall be made and shall form part of the record.

235. Every decision, after a formal inquiry, shall be in writing signed by the officer passing the same, and shall contain a full statement of the grounds on which it is passed.

Writing and
explanation
of decisions.

236. In summary inquiries, the revenue officer or survey officer shall himself, as any such inquiry proceeds, record a minute of the proceedings in his own hand in English or in Marathi embracing the material averments made by the parties interested, the material parts of the evidence, the decision, and the reasons for the same :

Summary
inquiries
how to be
conducted.

Provided that, it shall at any time be lawful for such officer to conduct an inquiry directed by this Code to be summary under all, or any of the rules applicable to a formal inquiry, if he deems fit.

237. (1) A formal or summary inquiry under this Code shall be deemed to be a judicial proceeding within the meaning of sections 193, 219 and 228 of the Indian Penal Code, and the office of any authority holding a formal or summary inquiry shall be deemed a civil court for the purposes of such inquiry.

XLV
of
1860.

Formal and
summary
inquiries to
be deemed
judicial
proceedings.

(2) Every hearing and decision, whether in a formal or summary inquiry, shall be in public, and the parties or their authorised agents shall have due notice to attend.

238. An inquiry which this Code does not require to be either formal or summary, or which any revenue or survey officer may on any occasion deem to be necessary to make, in the execution of his lawful duties, shall be conducted according to such rules applicable thereto, whether general or special, as may have been prescribed by the State Government, or an authority superior to the

Ordinary
inquiries
how to be
conducted.

officer conducting such inquiry, and except in so far as controlled by such rules, according to the discretion of the officer in such way as may seem best calculated for the ascertainment of all essential facts and the furtherance of the public good.

Copies and translations, etc. how to be obtained.

239. In all cases in which a formal or summary inquiry is made, authenticated copies and translations of decisions, orders, and the reasons therefor, and of exhibits, shall be furnished to the parties, and original documents used as evidence shall be restored to the persons who produced them, or to persons claiming under them on due application being made for the same, subject to such charges for copying, searches, inspection and other like matters as may, from time to time, be prescribed by the State Government.

Arrest of defaulter to be made upon warrant.

240. Whenever it is provided by this Code, that a defaulter, or any other person may be arrested, such arrest shall be made upon a warrant issued by any officer competent to direct such person's arrest.

Power to enter upon and survey land.

241. All revenue and survey officers and when under their observation and control, their servants and workmen when so directed, may enter upon and survey land and demarcate boundaries and do other acts connected with the lawful exercise of their office under this Code or any other law for the time being in force relating to land revenue and in so doing shall cause no more damage than may be required for the due performance of their duties :

Provided that, no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house, unless with the consent of the occupier thereof, without giving such occupier at least twenty-four hours notice, and in making such entry due regard shall be paid to the social and religious sentiments of the occupier.

Collector how to proceed in order to evict any person wrongfully in possession of land.

242. Whenever it is provided by this Code or by any other law for the time being in force that the Collector may or shall evict any person wrongfully in possession of land, such eviction shall be made in the following manner, that is to say,—

(a) by serving a notice on the person or persons in possession requiring them (within such time as may appear reasonable after receipt of the said notice) to vacate the land, and

(b) if such notice is not obeyed, by removing, or deputing a subordinate to remove, any person who may refuse to vacate the same, and

(c) if the officer removing any such person shall be resisted or obstructed by any person, the Collector shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause, and that such resistance and obstruction still continue, may, without prejudice to any proceedings to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, issue a warrant for the arrest of the said person, and on his appearance commit him to close custody in the office of the Collector or of any Tahsildar, or send him with a warrant in the form of Schedule D, for imprisonment in the civil jail of the district for such period not exceeding thirty days, as may be necessary to prevent the continuance of such obstruction or resistance.

243. A revenue or survey officer may give and apportion costs incurred in any case or proceeding arising under this Code or any other law for the time being in force in such manner and to such extent as he thinks fit :

Power to give and apportion costs.

Provided that, the fees of a legal practitioner shall not be allowed as costs in any such case or proceedings, unless such officer considers otherwise for reasons to be recorded by him in writing.

244. Save as otherwise provided in any other enactment for the time being in force, all appearances before, applications to and acts to be done before, any revenue or survey officer under this Code or any other law for the time being in force may be made or done by the parties themselves or by their recognised agents or by any legal practitioner :

Persons by whom appearances and applications may be made before and to revenue or survey officer.

V of 1908. Provided that, subject to the provisions of sections 132 and 133 of the Code of Civil Procedure, 1908, any such appearance shall, if the revenue or survey officer so directs, be made by the party in person.

¹[**245.** Nothing contained in this Chapter shall apply to any proceeding before the Maharashtra Revenue Tribunal under Chapter XV.]

Saving.

CHAPTER XIII

APPEALS, REVISION AND REVIEW.

²[**246.** The provisions of this Chapter shall not apply to proceedings before the Maharashtra Revenue Tribunal under Chapter XV.]

Application of this Chapter.

247. (1) In the absence of any express provisions of the Code, or of any law for the time being in force to the contrary, an appeal shall lie from any decision or order passed by a revenue or survey officer specified in column 1 of the Schedule E under this Code or any other law for the time being in force to the officer specified in column 2 of that Schedule whether or not such decision or order may itself have been passed on appeal from the decision or order of the officer specified in column 1 of the said Schedule :

Appeal and appellate authorities.

Provided that, in no case the number of appeals shall exceed two.

(2) When on account of promotion or change of designation an appeal against any decision or order lies under this section to the same officer who has passed the decision or order appealed against, the appeal shall lie to such other officer competent to decide the appeal to whom it may be transferred under the provisions of this Code.

248. An appeal shall lie to the State Government from any decision or order passed by a Commissioner or by a Settlement Commissioner or by a Director of Land Record, or by a Deputy Director of Land Records invested with power of Director of Land Record ³* * * except in the case of any decision or order passed by such officer on appeal from a decision or order itself recorded in appeal by any officer subordinate to him.

Appeal when to lie to State Government.

¹ Section 245 was inserted by Mah. 23 of 2007, s. 4.

² Section 246 was inserted, *ibid*, s. 5.

³ The words "or by the Collector of Bombay or by an Assistant or Deputy Collector subordinate to him invested with the appellate power of the Collector " were deleted by Mah. 47 of 1981, s. 8.