

# LLB –Part 2

## Special and local laws

### (Paper-VII)

#### Preface

##### **Land Revenue Act 1967 part 1**

Q # 1 Define and explain the classes of revenue officers, with particular reference to their functions and duties under the Land Revenue Act .....	2
Q # 2 Lambardar play very important role in Revenue Administration. Discuss his position with reference to his duties .....	6
Q # 3 Define the procedure of appointment and dismissal of lambardar .....	9
Q # 4 what is summoning? Describe forms of a valid summons and process of its series. ....	13
Q # 5 Explain the procedure of mutation of land.....	16
Q # 6 what is record of rights? Discuss the documents included in it. ....	19
Q # 7 what are the various process of recovery of the arrears of the land revenue. ....	22
Q # 8 who may apply for partition of joint holding? Discuss the procedure of partition also highlight the restriction and limitation on partition. ....	25
Q # 9 what is review? Discuss the law relating to “Review” under the provisions of land revenue act 1967.. ....	28
Q # 10 What is question of title? What are the essentials and who can dispose of question of title and procedure of disposal.....	31

##### **Punjab Tenancy Act 1967 part 2**

Q # 1 Discuss the relevant law regarding the establishment of right of occupancy under the Punjab Tenancy Act. ....	34
Q # 2 What are the grounds of ejectment of tenant.....	37
Q # 3 What are the limits of holding for personal cultivation under the Punjab Tenancy Act 1991? .....	40

##### **Pre-emption Act 1967 part 3**

Q # 1 Define Pre-Emption. What are the qualification for acquisition of pre-emption and discuss the persons who are entitled to claim this right .....	43
--	----

Q # 2 What are the essentials requirements to demand a right of pre-emption .....	46
Q # 3 What are the guidelines prescribed by the law for the determination of market value of the property .....	49

# Land Revenue Act 1967

**Q 1: Define and explain the classes of revenue officers, with particular reference to their functions and duties under the Land Revenue Act.**

## **1) Introduction**

- Land Revenue Act 1967 deals with laws relating to the land revenue administration in Pakistan. In order to perform land related administrative functions, revenue officers have been appointed who controls the land revenue matters of the Punjab. There are several classes of revenue officers as well as their duties; functions and process of their appointments have been prescribed in this act.

## **2) Relevant Provision**

- Section 7 of the Land Revenue Act 1967 deals with the functions, duties, and process of appointment of revenue officer.

## **3) Definition of Revenue Officers**

- Revenue officer is a person who is appointed by the Government in order to collect revenue (Taxes, duties) on the behalf of government from the landowners is called revenue officer.

## **4) Classes of Revenue Officer**

Following are the classes of Revenue officer under the Board of revenue.

1. Board of Revenue
2. Commissioner
3. Collector
4. Assistant Collector of the first grade
5. Assistant Collector of the second grade
6. Tehsildar

### **i.Board of Revenue**

- Board of revenue is an autonomous federal body of Pakistan which deals with the revenue matters of the state and responsible to collect the revenue for the government from landowner.

#### **➤ Establishment**

- Board of Revenue was established Under the West Pakistan Board of Revenue act 1957

#### **➤ Duties**

Following are the duties of the Board of Revenue.

1. Appointments of all the revenue officers
2. Issues dismissal and transfer orders of revenue officers
3. Supervises and controlling of all the revenue officers
4. Board of revenue is highest court of which hears the cases of its revenue officers

## ii. Commissioner

- Province Punjab has been divided into 9 divisions. One commissioner is appointed for each division. Commissioner is highest authority of the divisions who controls all the revenue officers of his division.

### ➤ Appointment

- Under the Land Revenue Act 1967, only one commissioner shall be appointed for each division.

### ➤ Duties

Following are the duties of the commissioner

- 1) To assigns tasks to his subordinate revenue officers
- 2) To monitor his subordinate revenue officers
- 3) Imposition of penalty against non-filers
- 4) Implementation policies for revenue collection
- 5) To initiate judicial proceedings against in vigilant revenue officers

## iii. Collector

- Province Punjab has been divided into 36 districts. One collector is appointed for each district. Collector is highest authority of the district who controls all the revenue officers of his district.

### ➤ Appointment

- Under the Land Revenue Act 1967, only one collector shall be appointed for each district

### ➤ Duties

Following are the duties of the collector.

- 1) To transfers any pending case to any other subordinate of his best
- 2) To dispose any pending case before his subordinate
- 3) To initiate judicial proceedings against in vigilant revenue officers
- 4) To conduct internal and external survey of his department performance

## iv. Assistant Collector of 1<sup>st</sup> Grade

- One Assistant collector of 1<sup>st</sup> Grade is appointed for each sub-division. Assistant Collector of 1<sup>st</sup> Grade is highest authority of the sub-division who controls all the revenue matters of the sub-division

### ➤ Appointment

- Under the Land Revenue Act 1967, only one Assistant collector of 1<sup>st</sup> Grade shall be appointed for each Sub-division

➤ **Duties**

- Assistant Collector of 1st grade always performs his duties under the directions of the provincial government in order to collect revenue from all the landowners of his sub-division.

**v. Assistant Collector of 2<sup>nd</sup> Grade**

- One Assistant collector of 2nd Grade is appointed for each sub-division. Assistant Collector of 2<sup>nd</sup> Grade is highest authority of the sub-division who controls all the revenue matters of the sub-division

➤ **Appointment**

- Under the Land Revenue Act 1967, only one Assistant collector of 2<sup>nd</sup> Grade shall be appointed for each Sub-division

➤ **Duties**

- Assistant Collector of 2<sup>nd</sup> grade always performs his duties under the directions of the provincial government in order to collect revenue from all the landowners of his sub-division.

**vi. Assistant Collector of 3<sup>rd</sup> Grade**

- One Tehsildar is appointed for each Tehsil. Tehsildar is highest authority of the Tehsil who controls all the revenue matters of his Tehsil

➤ **Appointment**

- Under the Land Revenue Act 1967, only one Tehsildar shall be appointed for each Tehsil

➤ **Duties**

- Tehsildar always performs his duties under the directions of the Assistant Collector of 1<sup>st</sup> and 2<sup>nd</sup> Grade, under the provision of this act in order to collect revenue from all the landowners of his sub-division.

**5) Procedure of Appointment of Revenue Officer**

- All the revenue officers of the Province shall be appointed by governmental notification

**6) Conclusion**

- To conclude, i can say that board of revenue is a body which performs his duties in order to collect revenue from the landowners and it makes it possible by enforcement of law of revenue board by the revenue officers of a particular area. There are number of classes of revenue officer who has been authorized by law to perform their functions.

**Q 02: Lambardar play very important role in Revenue Administration.  
Discuss his position with reference to his duties.**

**1) Introduction**

- Under the Land Revenue Administrative system, lambardar of a village is a title which is vested to a person by the executive district officer of Board of Revenue. Lambardar is under an obligation to collect the revenue from the landlords of his village and provide facility to the landlords of his village if they wanted to be facilitated. In every village the government designates a lambardar to administer the revenue affairs.

**2) Relevant Provision**

- Section 4 (28) and 36 of the Land Revenue Act 1967 deals with the, duties of the Lambardar.

**3) Definition of Lambardar**

- Village officer or a lambardar is a person who is appointed by the EDO of Board of Revenue in order to collect revenue (Taxes, duties) on the behalf of government from the landlords of his village is called lambardar.

**4) Classification of village officer**

Following are the classifications of village officers of Board of revenue.

- 1) Village officer or Lambardar
- 2) Patwris.
- 3) Kanugoes
- 4) Zabits.
- 5) Kotars.
- 6) Arbabs

**5) Duties of Lambardar**

Following are the duties of lambardar. Details are as under:

**i. Collection of revenue**

- Lambardar collects land revenue from the landlords of his village according to the rates defined by the Land Revenue Act 1967. As well as collects others amounts recoverable.

**ii. Collection of rent**

- If land of government of the Punjab has been given on rent, in this case lambardar collects the amount of rent from the landlords of his village according to the rates defined by the Land Revenue Act 1967.

**iii. Collection of profit**

- If land of government of the Punjab has been given for business purposes, in this case lambardar collects the amount of profit from the businessmen landlords of his village according to the rates defined by the Land Revenue Act 1967.

- iv. Protection of Government Properties**
  - It is the duty of lambardar to protect the property of the Government of the Punjab and take care of such property from illegal use of it.
- v. Issuance of receipt**
  - If any landlord pays his taxes, duties imposed on him by the Land Revenue Act 1967, in this case, it is the duty of lambardar to issue a copy of receipt to the landlord for acknowledgement of payment.
- vi. To obey the orders of Revenue officers**
  - It is the duty of lambardar to obey the legal orders of all the revenue officer of the district for smooth official operations which are made in order to collect revenue or for other official purposes.
- vii. Provision of Assistance to Revenue Officers**
  - It is the duty of lambardar to provide assistance to all the revenue officers of the district if assistance is needed at any time in order to execute the policies of the department.
- viii. Provision of Assistance to Government Officer**
  - It is the duty of lambardar to provide assistance to all the government officers of the district if assistance is needed by them in order to execute government order within the village area.
- ix. Provision of Assistant to Postman**
  - It is the duty of lambardar to provide assistance to the postman of the village if he needs any kind of assistance to execute his duty
- x. Report of Encroachment**
  - It is the duty of lambardar to report to the government of the Punjab regarding encroachment on the roads, streets and public places, made by the villagers
- xi. Report of Criminal Act**
  - It is the duty of lambardar to report to the Government of the Punjab regarding commission of any criminal act which is committed within the area of his village.
- xii. Report of Damage**
  - It is the duty of lambardar to report to the Government of the Punjab regarding any damage of the property of the government within the area of his village.
- xiii. Report of Death of landlord**
  - It is the duty of lambardar to report to the Government of the Punjab regarding death of any landlord of his village
- xiv. Report of Epidemic Diseases**
  - It is the duty of lambardar to report to the Government of the Punjab regarding any Epidemic disease which is spreading in his village in order to prevent the peoples of his village from such disease.

**xv. Report of Anti-social activities**

- It is the duty of lambardar to report to the Government of the Punjab regarding any anti-social activities of the dubious peoples of his village in order to prevent the peoples of his village from such activities.

**xvi. Report of expenses**

- It is the duty of lambardar to report to the Government of the Punjab regarding any expenses which has been made for the betterment of the village and peoples thereof.

**xvii. To create of affection among the villagers**

- It is the duty of lambardar to create love and affection between the peoples of his village and later on maintain such affection and love

**xviii. Any other duty**

It is the duty of lambardar to perform other duties which have been assigned to him by the government of the Punjab on temporary basis or permanent basis.

**6) Conclusion:**

- To conclude i can say that lambardar is also knows as village officer who is appointed by the Executive District Officer of Board of Revenue in order to collect revenue in the shape of taxes, duties, rents as well as profits according to the defined rates under the Land revenue Act. There a lot of duties which are performed by the Lambardar



## **Q # 03: Define the procedure of appointment and dismissal of lambardar.**

### **1) Introduction**

- Under the Land Revenue Administrative system, lambardar of a village is a title which is vested to a person by the executive district officer of Board of Revenue. Lambardar is under an obligation to collect the revenue from the landlords of his village and provide facility to the landlords of his village if they wanted to be facilitated. In every village the government designates a lambardar to administer the revenue affairs.

### **2) Relevant Provision**

- Section 4 (28) and 36 of the Land Revenue Act 1967 deals with the, duties of the Lambardar.

### **3) Definition of Lambardar**

- Village officer or a lambardar is a person who is appointed by the EDO of Board of Revenue in order to collect revenue (Taxes, duties) on the behalf of government from the landlords of his village is called lambardar.

### **4) Classification of village officer**

Following are the classifications of village officers of Board of revenue.

- 7) Village officer or Lambardar
- 8) Patwris.
- 9) Kanugoes
- 10) Zabits.
- 11) Kotars.
- 12) Arbabs

### **5) Appointment of Lambardar**

- Each and every person of the village is entitled to be appointed as lambardar/village officer by the high authorities of the Board of Revenue in this regard, no one can be appointed as vested right of appointment.

#### **➤ Case law 2005**

- It was held that no one has a right to claim for appointment on the basis of preference. Criteria of selection are the fitness of the candidate to perform the responsibilities of his office.

### **6) Matters to be considered for appointment of Lambardar**

Following are the matters which need to be considered for appointment of lambardar of a village.

#### **i. Hereditary claim**

- In the very first appointment of the lambardar, hiring authorities of board of revenue consider the hereditary claim because candidate having claimed on the basis of hereditary is always preferred.

**ii. Services of candidate**

- In the appointment of the lambardar, hiring authorities of board of revenue consider the services of the candidate for the betterment of village or state.

**iii. Personal status**

- In the appointment of the lambardar, hiring authorities of board of revenue consider the personal status of candidate such as his piety, seniority and dealing with peoples on different matters are kept in view.

**iv. State of mind of candidate**

- In the appointment of the lambardar, hiring authorities of board of revenue consider the state of mind of candidate whether candidate is mentally fit to perform his responsibilities of his office or not

**v. Physical Fitness**

- In the appointment of the lambardar, hiring authorities of board of revenue consider the physical fitness of candidate whether candidate is able to perform his responsibilities of his office or not

**vi. Education of candidate**

- In the appointment of the lambardar, hiring authorities of board of revenue consider the education level of candidate and highly educated candidates are always preferred for this.

**vii. Bankruptcy**

- In the appointment of the lambardar, hiring authorities of board of revenue consider matter of bankruptcy of the candidate, and ensures that the candidate has not been involved in fraudulent activities ever.

**viii. Conviction**

- In the appointment of the lambardar, hiring authorities of board of revenue consider matter of conviction of the candidate, and ensures that the candidate has not been convicted by the court of law for any criminal activity ever.

**ix. Possession of property**

- In the appointment of the lambardar, hiring authorities of board of revenue consider the amount of property possessed by the candidate and analysis such property that how it was acquired by him

**7) Appointment of Minor as lambardar**

- Under the Land Revenue Act 1967, a minor is competent to become village officer/ lambardar of his village if he is being capable to perform his duties of his officer as well as qualifies selections criteria

**8) Appointment of Female as lambardar**

- Under the Land Revenue Act 1967, a female is competent to become village officer/ lambardar of his village if she solely has hereditary claim for her appointment and is being capable to perform her duties of her officer as well as qualifies selections criteria

### **9) Appointment of Govt officer as lambardar**

- Under the Land Revenue Act 1967, a government officer is not competent to become village officer/ lambardar of his village

### **10) Fixation of Renumeration of Lambardar**

- Under the Land Revenue Act 1967, the salary of the lambardar is fixed by the superior authorities of the board of revenue but it does not exceed from 5 % of the collected revenue of the village and such salary is fixed by issuing a notification by the government of the punjab.

### **11) Dismissal of Lambardar**

Dismissal of lambardar is categorized into the following ways.

#### **I. When Lambardar must be dismissed**

Following are the circumstance when lambardar must be dismissed

##### **A. Conviction**

- If the lambardar has been convicted by the court of law and kept in imprisonment more than 6 months on account of criminal act, in this case he must be dismissed by the authorities

##### **B. Ceases to be land owner**

- If the lambardar has been ceased to be land owner by the court of law, here is his office, in this case he must be dismissed by the authorities

##### **C. Transfer of Holding**

- If the lambardar has transferred his holding to anyone on rent or on profit without involving the law into, in this case he must be dismissed by the authorities

##### **D. Mortgage of Holding**

- If the lambardar has mortgaged his holding to anyone and delivered possession of it to any one without involving the law into, in this case he must be dismissed by the authorities

#### **II. When lambardar may be dismissed**

Following are the circumstances when lambardar may be dismissed.

##### **a) Age**

- If the lambardar is minor or unable to perform his duties due of his less age, in this case he may be dismissed by the authorities.

##### **b) State of mind**

- If the lambardar is mentally unfit to perform his duties due his mental sickness, in this case he may be dismissed by the authorities.

##### **c) Physical unfitness**

- If the lambardar is physically unfit to perform his duties due his physical sickness, in this case he may be dismissed by the authorities.

**d) Bankruptcy**

- If the lambardar has become bankrupt, in this case he may be dismissed by the authorities.

**e) Failure to perform duty**

- If the lambardar get failed to perform his official duties due to any reason, in this case he may be dismissed by the authorities.

**f) Negligence**

- If the lambardar negligent does not perform his official duties, in this case he may be dismissed by the authorities.

**g) Illegal activities**

- If the lambardar is found to perform illegal activities which are totally against the interest of the general public or against the public law, in this case he may be dismissed by the authorities.

**h) Criminal proceedings**

- If the criminal proceedings have been initiated by the court of law against the lambardar for any criminal commission or omission, in this case he may be dismissed

**i) Illegal profit**

- If the lambardar gains illegal profit from his holding property by concealing from law, in this case he may be dismissed

**12) Conclusion**

- To conclude i can say that village officer or lambardar is a person who is appointed by the superior authorities of the state in order to collect the revenue from the landowners of the state but there are some considerations which are kept in mind while making the appointment of the village officer such as his education, personal status, character, hereditary claim etc. Furthermore there are some circumstance which are kept in mind at the time of his dismissal from office.

## **Q 04: What is summoning? Describe forms of a valid summons and process of its series.**

### **1) Introduction**

- Under the land revenue act 1967, revenue officer is entitled to serve a summons to the landowner and a summons is a paper issued by a revenue officer informing a landowner that a legal action has been taken against him on the violation of the rules and regulation of the board of revenue. This is a form of legal process that instructs the landowner to appear before the court on a specific day and to answer the liabilities imposed by the revenue officer.

### **2) Definition of summons**

- Summon is a document which contains the order of the revenue officer for landowner to appear before revenue officer, is called summons.

### **3) Forms of summons**

Following are the forms of summons.

1. Notice
2. Orders
3. Proclamation

Mode of service of notice, order or proclamation, or copy thereof.– (1) A notice, order or proclamation, or a copy of any such document, issued by a Revenue Officer for service on any person, shall be served in the manner provided in section 24 for the service of a summons

### **4) Validity of summons**

Following are the validities of the summons as well as notice, orders and proclamations. Details are as under

#### **i. By Revenue officer**

- Summon should be issued by the revenue officer only. If it has been issued other than revenue officer, in this case it would not be a valid summons.

#### **ii. Signed**

- Summon should be signed by the relevant revenue officer. If it has not been signed by the revenue officer, in this case it is not a valid summons.

#### **iii. Written**

- Summon should be issued in form of writing. If it has been verbally ordered to the landowner, in this case it is not a valid summons.

**iv. Duplicate**

- Summon must have duplicate copy of it. If the duplicate copy of summon has not been made, in this case it is not a valid summons

**v. Purpose**

- Summon should state the purpose for which it is issued by the revenue officer. If it does not state the purpose of its issuance, in this case it is not a valid summons.

**vi. Seal**

- Summon should be sealed at any cost. If it has not been sealed, in this case it is not a valid summons.

**5) Process of service of summons**

Following are the procedures of service of summons. Details are as under.

**1) To landowner**

- Summon issued by the revenue officer will be served to the landowner personally to whom it is addressed to appear to justify himself

**2) To Family member**

- Summon issued by the revenue officer will be served to the any family member of the landowner to whom it is addressed to appear to justify himself

**3) To authorized agent**

- Summon issued by the revenue officer will be served to any agent of the landowner to whom it is addressed to appear to justify himself

**4) To last residence**

- If summons issued by the revenue officer is not served due to any reason, or due to refusal from acceptance, in this case such summon will be served at the last known residence of the landowner to whom it is addressed to appear to justify himself.

**5) To collector**

- If summons issued by the revenue officer is not served to the person's last residence, in this case such summons will be served to the collector of the district in which currently the concerned person resides, and collector will be responsible to serve the letter to the person under the provision of the act.

#### **6) Penalty after summons**

- Under the land revenue act 1967, if any person is required by summons by revenue officer to appear before him at a specified time and place against non-accomplishment of requisitions of the state, in this case he shall be liable to the fine which may be of 500 rupees at the discretion of revenue officer.

#### **7) Proceedings held in holiday**

- Under the land revenue act 1967, if proceedings are being held before by Revenue Officer on a day notified as a holiday, in this case such proceedings shall not be considered as invalid by reason of held on holiday.

#### **8) Place of sitting**

- Under the land revenue act 1967, a Revenue Officer can exercise his powers at any place within the limits of his jurisdiction.
- **Note:** An Assistant Collector of the first grade may exercise his powers at any place within the district in which he is employed.

#### **9) Conclusion**

- To conclude i can say the land revenue act 1967, is very powerful act in which a lot of powers have been given to the revenue officer for collection of land revenue from the landowners of the state. Such as summons which are served by the revenue officers to the concerned persons in this regard.

## **Q # 05: Explain the procedure of mutation of land.**

### **1) Introduction**

- Under the Land Revenue Act 1967, the mutation of a property is the change of title of property in the revenue records of the local municipal corporation. Patwaries of a particular area are responsible to make such changes in the Mutation register and are responsible to enter the name of new owner's name in the register. The change of title of ownership can be due to a number of reasons such as by death of owner or by transfer of property.

### **2) Relevant Provision**

- Section 42 of the Land Revenue Act 1967 deals with Mutation.

### **3) Definition of Mutation**

- The Term mutation means change of title of ownership in the records of board of revenue such change is made in order to up to date the latest owner of the property in mutation register.

### **4) Importance of mutation**

Following are the reasons for importance of mutation.

- ✓ Mutation helps to keep up to dated the record
- ✓ Mutation helps to protect rights of owners
- ✓ Mutation helps to recover arrears
- ✓ Mutation helps to control the corruption
- ✓ Mutation helps to create accuracy in the record keeping system

### **5) Procedure of Mutation**

Following are the procedures of mutation according to the land revenue act 1967.

#### **i. Acquisition of property by new owner**

- Under the land revenue act, procedure of mutation starts when anyone acquires the property on the death of original owner, by deed of transfer, by gift, by deed of purchase or any other way, in this case the new owner is under an obligation to report to the concerned patwari so that he may be update the name of new owner in the Mutation register.

#### **ii. Entry in Mutation Register**

- Under the land revenue act, after reporting by the new owner, patwari is under an obligation to enter the record into the Mutation register in order the update and record of new owner in the place of old owner.



**iii. Provision of Copy to owner**

- Under the land revenue act, after entering the record into the mutation register, the patwari is under an obligation to provide a copy of record to the new owner of the property for acknowledgement

**iv. Provision of Copy to Union Council**

- Under the land revenue act, after entering the record into the mutation register, the patwari is under an obligation to send a copy of record to the union council for acknowledgment

**v. Time period of provision of copy**

- Under the land revenue act, after entering the record into the mutation register, the patwari is under an obligation to send a copy of record to the new owner as well as the union council for acknowledgment within the one week only.

**6) Report against refusal of patwari to enter mutation**

Following are the person to whom the new owner will report against the refusal of patwari to enter the record of mutation in the revenue records.

**i. Revenue officer**

- If the patwari refuses to enter the record of new owner in the mutation register, in this case the owner will report to the revenue officer of his area against patwari by sending a written application by post.

**ii. Chairman of UC**

- If the patwari refuses to enter the record of new owner in the mutation register, in this case the owner will report to the chairman of his Union Council against patwari by sending a written application by post.

**7) Procedure of attestation of mutation**

Following are the procedures of attestation of mutation under the land revenue act 1967.

**I. Checking the Entries**

- Under the land revenue act 1967, entries made by the patwaries in the mutation register are checked by the revenue officer and after checking accuracy of the records, the revenue officer attests the entries before the new owners of the property.

➤ **Exceptions**

Following are the exceptions to checking of the entries.

1. If property is transferred by the succession
2. If property is transferred by the order of the court
3. If property is transferred by the a person to a trust

## **II. Identification of owner**

- Under the land revenue act 1967, the new owner of the property is identified by revenue officer as mentioned in the mutation register by the partwari. Such identification can be verified by the lambardar or Chairman of the Union council too. Signature or thumb impression of the new owner also will be taken on the mutation register.

## **III. Inquiry of land**

- Under the land revenue act 1967, the inquiry of the land is conducted that where the piece of land is situation? Revenue officer attests the land by visiting a particular piece of land personally.

## **IV. Order of the revenue officer**

- Under the land revenue act 1967, after checking the accuracy of entries in mutation register, identification of owner and inquiry of the land, the revenue officer shall order to enter the record into the periodical record of the board of revenue within the three months after its first entry in to the mutation register if the revenue officer gets failed to order for such entry, in this case he will explain the cause of such delay to the collector.

## **8) When mutation is needed to be entered**

Following are the circumstances when mutation is considered as necessary to be entered in the revenue records.

- ✓ If property is transferred by the succession
- ✓ If property is transferred by the order of the court
- ✓ If property is transferred by the a person to a trust
- ✓ If property is transferred by gift
- ✓ If property is transferred by purchase
- ✓ If property is transferred by mortgage
- ✓ If property is transferred by lease

## **9) Conclusion**

- To conclude i can say that the term of mutation is used to change the name of the new owner in place of old owner in the mutation register by the patwari, such change can be due to death of original owner, by deed of transfer, or by gift or by purchasing the piece of land from real owner. But patwari is under an obligation to enter the record into mutation register

## **Q # 06: What is record of rights? Discuss the documents included in it.**

### **1) Introduction**

- Under the land revenue act 1967, the term record of rights is used to maintain the data of new and old owners of the land and land itself within the estate. Whenever any official of board of revenue or any other wants to get all the details about the owners of land or land itself he has to recourse to the records of rights in this regard because it provides all the details related to owners and land itself such as disputes, payable etc.

### **2) Relevant Provision**

- Section 39 & 40 of the Land Revenue Act 1967 deals with record of rights.

### **3) Definition of Record of rights**

- Record of rights is such record which contains the names of owners of land and details about the land itself, such as disputes, payable, and rights and obligations of the owners

### **4) Information available in record of rights**

Following is the information which is available in the record of rights

1. Names of all the persons who ever has acquired some rights in the land, nature and limits of their rights.
2. Details of charges of attachment and decrees imposed by civil court or authorities of board of revenue
3. Details of loan taken by the owners
4. Location of the land itself
5. Easement if acquired by someone, such as right of way is entered in this record.

### **5) Documents included in records of right**

Following are the documents which have been included in the record of right. Details are as under.

#### **i. Mutation register**

- Mutation register is included in records of rights in which the names of owners of land and tenants of land are mentioned. It is maintained by the patwari who is responsible to keep it up to date.

#### **ii. Jamabandi register**

- Jamabandi register is also included in record of rights and it is most important document of revenue record which is known as fard in which names of owners, shares of owners, area of land, and other Rights are mentioned. It also indicates charges, payables on land.

**iii. Map of the estate**

- Map of the estate is included in records of rights in which measured area of land and location of land is mentioned.

**iv. Statement of distribution of water**

- Statement of distribution of water is included in the record of rights in which sources of water in order to irrigate the land are mentioned that whether land is being irrigated by karez, well, or by canal, it also prescribed the periodical record of its irrigation.

**v. Statement of customs**

- Statement of customs is also included in the record of rights in which all the prevailed customs of a particular area are mentioned. Such customs define the rights and responsibilities of the landowners as well as tenants.

**vi. Statement of payables**

- Statement of payables is included in the record of rights in which arrears of Land Revenue are mentioned which are payable after due date. It is also mentioned that how such amounts will be paid to the board of revenue.

**vii. Statement of correction of clerical mistakes**

- Statement of correction of clerical mistakes is included in record of rights in which corrections of clerical mistakes are mentioned.

**viii. Shajar e Nasab**

- Shajar e Nasab is also included in record of rights in which genealogical history of all the owners of a particular land are mentioned according to their order.

**ix. Rights and duties**

- There is a register which is included in the records of right in which rights and duties of the landowners and tenants are mentioned. And defines limits for all the persons attached to the land.

**6) Importance of record of rights**

Following are the reasons for importance of record of rights.

- ✓ Record of rights helps to keep up to dated the record
- ✓ Record of rights helps to protect rights of owners
- ✓ Record of rights helps to recover arrears
- ✓ Record of rights helps to control the corruption
- ✓ Record of rights helps to identify the measured area of land
- ✓ Record of rights helps to identify the location of land
- ✓ Record of rights helps to create accuracy in the record keeping system

#### **7) Object of record of rights**

- The basic and fundamental object of the record of the rights is to collect the revenue from the land owners of the village or state under the land revenue act. Furthermore, record of rights points out that are under an obligation to pay the revenue to the government.

#### **8) Remedy against wrong entry**

- In case of wrong entry in the records of right which is affecting his rights, the aggrieved person can file declaratory suit in the civil court for correction of wrong entry under the provision of land revenue act 1967, after determination of the case the court will issue an order for correction of the entry of record of rights

#### **9) Rule of presumption**

- According to the provisions of land revenue act, it is always to be presumed that all the entries made in the record of rights are correct until these proved wrong by evidence

#### **10) Conclusion**

- To conclude I can say that keeping an accurate records of rights is necessary for a sound system of assessment and collection of revenue by the department, without such record it is not possible to determine who is liable to pay revenue for a particular land, and it would be difficult to settle the disputes between various claimants to that land.

## **Q 07: What are the various process of recovery of the arrears of the land revenue?**

### **1) Introduction**

- Under the land revenue act 1967, if the taxes and duties imposed by the government have not been paid by the landowner, in this case the government of the state shall take necessary steps in order to recover the land revenue from the landowners by using different method mentioned in the rules of board of revenue and revenue officers are responsible for recovery of land revenue.

### **2) Relevant Provision**

- Section 80 of the Land Revenue Act 1967 deals with procedure of recover of land revenue.

### **3) Definition of Arrears of land**

- Under the land revenue act, arrears of land mean due amount payable even after expiry of due date.

### **4) Procedures of recovery of land revenue**

Following are the procedures of recovery of land revenue. Details are as under

#### **i. By notice**

- Under the land revenue act 1967, in order to recover the arrears of land, the revenue officer will serve a notice of demand to the landowner for payment of due amount after expiry of due date.

#### **➤ Case law**

- It was held that the notice of demand which was served by the revenue officer could be determined if dues are unpaid by the landowner

#### **ii. By arrest**

- Under the land revenue act 1967, in order to recover the arrears of land, if after 30 days of issuance of demand notice, the due amount is not paid by the landowner, in this case the revenue officer will issue a warrant to arrest the landowner with the help of police but landowner will not be kept in custody more than 10 days

#### **➤ Exceptions from arrest**

Following persons will not be arrested by the police.

- 1) Unsound mind person
- 2) Minor
- 3) Female
- 4) if the amount has been paid by the landowner

**iii. By selling moveable property**

- Under the land revenue act 1967, in order to recover arrears of land, the revenue officer is entitled to sale the moveable property such as crops, cattle and machinery of the landowner after the expiry of due date.

➤ **Discretion of collector**

- In this regard, the collector of that area can exempt the landowner from acquisition of and selling of his immovable property for the sake of his family

**iv. By selling immovable property**

- Under the land revenue act 1967, if the due amount has not been paid from many years even after execution of all above mentioned procedures of recovery of arrears of land , in this case in order to recover the arrears of land, the revenue officer is entitled to sale the property of owner with the prior sanction of the authorities of the board of revenue.

**v. By Seizure of immovable property**

- Under the land revenue act 1967, in order to recover arrears of land, if the due amount has not been paid from many years, the revenue officer is entitled to seize the immovable property such as land of owner after the expiry of due date. Such seizure of property will be released with profit if earned, the landowner if the arrears are paid.

➤ **Period of Seizure**

- If the property is seized by the revenue officer, in this case such seizure may be not exceeding for the period of 5 agriculture years

**vi. By seizure of moveable property**

- Under the land revenue act 1967, in order to recover arrears of land, the revenue officer is entitled to seize the moveable property such as land of the landowner after the expiry of due date.

**vii. By transfer**

- Under the land revenue act 1967, in order to recover arrears of land, the revenue officer is entitled to transfer the moveable property such as land of the owner after the expiry of due date. Such transferred property will be returned with profit if earned, to landowner if the arrears are paid

➤ **Period of transfer**

- If the property is transferred by the revenue officer, in this case such transfer may be for one agriculture year or may be less than 15 years or until the arrears are paid.

**viii. By annulment**

- Under the land revenue act 1967, if the due amount has not been paid from the period of one year even after execution of all above mentioned procedures of recovery of arrears of land , in this case the revenue officer is entitled to annul the arrears of land

**5) Deposit of revenue**

- Arrears of land revenue are deposited in the relevant tehsil headquarters which have been integrated with the treasury of the district. All the land owners of the state can deposit the taxes and duties imposed upon them by the government of the Punjab at any headquarter of the relevant district.

**6) Upon whom land revenue is imposed**

- Land revenue is imposed upon all the landowners of the state who have attained the title of ownership of any particular piece of land as well as it is also imposed upon them who have not attained the title of ownership but possession of it.

**7) Conclusion:**

- To conclude I can say that, the land revenue act provides different methods of recovery of arrears of land revenue because all of the land owners are under an obligation to pay land revenue. If any of the landowner whose arrears are unpaid after execution of all the methods of recovery of arrears in this case the revenue officer can annul the arrears with the approval of senior officials of board of revenue.



**Q 08: Who may apply for partition of joint holding? Discuss the procedure of partition also highlight the restriction and limitation on partition.**

**1) Introduction**

- Under the land revenue act 1967, the term partition is a term which is used to divide property when the land is owned by two or more individuals as joint owners or tenants. The right of partition is an absolute right and does not require the consent of other co-tenants. If partition is needed by the parties in this case they will file an application before the land revenue officer for execution of partition.

**2) Relevant Provision**

- Section 135 to 150 of the Land Revenue Act 1967 deals with procedure of partition of land.

**3) Definition of Partition**

- When two or more owners or tenants of the a same property by their mutual consent or without mutual consent, file an application before the revenue officer for division of their property according in lieu of shares, in called partition.

**4) Basis of Partition of holding**

- Partition of the joint holding of any particular property is based on a Latin maxim, according to it; everyone has a right to avail all the shares of his property by partition because no one can be forced to hold the co-ownership against his consent

**5) Procedures of Partition of land**

Following are the procedures of partition of land. Details are as under.

**i. Submission of application**

- Under the land revenue act 1967, if the co-owners of a property wanted to divide their property, in this case an application shall be submitted to the land revenue officer before proceedings.

**ii. Notice to defendants**

- Under the land revenue act 1967, after receiving an application for division of property by either party, the land revenue officer shall send a notice to the defendant to appear for hearing before him.

**iii. Question of the title**

- Under the land revenue act 1967, at the first hearing, the revenue officer shall ensure the question of the title of the property that, who owns the title of ownership of the property before execution of partition.

**iv. Rejection of application**

- Under the land revenue act 1967, the revenue officer shall reject the application of partition if he thinks that there are multiple reasons for rejection of the application.

**v. Settlement of disputes**

- Under the land revenue act 1967, if the application is accepted by the revenue officer but there are some disputes between the parties regarding the partition of the land, in this case the revenue officer shall settle all the disputes of the parties before execution of partition.

**vi. Execution of partition**

- Under the land revenue act 1967, after settlement of the disputes, the revenue officer shall prepare a document in which the time and date of execution of partition will be mentioned as copy of it will be given to the parties.

**vii. Delivery of possession**

- Under the land revenue act 1967, after execution of partition of the property, the possession of the property will be delivered to the parties according to the in lieu of their shares.

➤ **Case law**

- It was held that the every person can submit an application for possession of the property after deed of partition within three years from the date of partition

**6) Application for partition**

- Under land revenue act 1967, section 111 provides that “any joint owner of land, or any joint tenant of a tenancy can apply to a revenue-officer for partition of his share in the land or tenancy by mentioning proposed plan of partition indicating the quality and location of the land in application along with reasons for partition.

## **7) Partition of agriculture land**

- Under the land revenue act 1967, agriculture land comes under the jurisdiction of the revenue court, if civil court grants decree for partition of agricultural land in this case such decree will be considered as null and void because it does not come under the jurisdiction of the civil court

## **8) Persons entitled to partition**

Following are the persons who are entitled to partition under the land revenue act.

1. Co-owners of the same property such as heirs of deceased person
2. Co-tenants of the same property
3. Widow is entitled to partition

## **9) Persons not entitled to partition**

Following are the persons who are not entitled to partition under the land revenue act.

1. Sole owner of a property
2. A person who neither an owner nor a tenant
3. Lease holder
4. Mortgagee

## **10) Limitations on partition**

Under the land revenue act, following are the limitations on the partition of land

4. Grazing fields cannot be partitioned
5. Graveyards cannot be partitioned
6. Mosques, shrines and churches and other places of worship cannot be partitioned
7. Devoted well and water supply cannot be partitioned
8. Any occupied piece of land which is being used for residence by a town or village cannot be partitioned

## **11) Conclusion**

- To conclude i can say that partition deed is a tool to divide a piece of land between the co-owners or the co-tenants of the property after submission of an application for such partition and revenue officer will proceed for execution of partition according to the rules and regulation of board of revenue.

## **Q09: What is review? Discuss the law relating to “Review” under the provisions of land revenue act 1967.**

### **1) Introduction**

- Under the land revenue act 1967, the revenue court is empowered to take judicial review of its own decision when someone disagrees with this decision due to an error in it at that time the revenue court once again consider the case upon which they already have made a decision but later on after finding something wrong in the decision, revenue court makes decision on the same case once again

### **2) Relevant Provision**

- Section 163 of the Land Revenue Act 1967 deals with review.

### **3) Definition of Review**

- A process where the revenue court is asked to re-consider it's own decision when decision is inappropriate and does not fulfill the requirements of justice.

### **4) Authorities who can review**

Following are the authorities of the board of revenue who can review the case in the request of aggrieved person or on his own.

#### **a) EDO Revenue**

- Under the land revenue act 1967, executive district officer revenue has an authority to review the case under the provision of act of board of revenue.

#### **b) Collector**

- Under the land revenue act 1967, executive district officer revenue has an authority to review the case under the provision of act of board of revenue.

#### **c) Assistant collector**

- Under the land revenue act 1967, executive district officer revenue has an authority to review the case under the provision of act of board of revenue.

### **5) Cases when review is allowed**

Following are the cases when review is allowed and revenue court can re-consider the case upon which they have made the decision earlier.

#### **i. New evidence**

- Under the land revenue act 1967, revenue court is empowered to review the case, if a new evidence is found later on, in this case court will review the case

- ii. **Mistake of law**
  - Under the land revenue act 1967, revenue court is empowered to review the case, if the decision made was based on mistake of law, in this case court will review the case
- iii. **Mistake of fact**
  - Under the land revenue act 1967, revenue court is empowered to review the case, if the decision made was based on mistake of fact, in this case court will review the case
- iv. **Decision without opportunity to defendant**
  - Under the land revenue act 1967, revenue court is empowered to review the case, if the decision made without giving the opportunity to the defendant to defend the case, in this case court will review the case
- v. **Misrepresentation**
  - Under the land revenue act 1967, revenue court is empowered to review the case, if the decision made was based on misrepresentation, in this case court will review the case
- vi. **Fraud**
  - Under the land revenue act 1967, revenue court is empowered to review the case, if the decision made was based on fraud, in this case court will review the case
- vii. **Undue influence**
  - Under the land revenue act 1967, revenue court is empowered to review the case, if the decision made was based under the undue influence, in this case court will review the case
- viii. **Revision of law**
  - Under the land revenue act 1967, revenue court is empowered to review the case, if the existing law has been changed with the change of government, in this case court will review the case.
- ix. **Revision on other grounds**
  - Under the land revenue act 1967, revenue court is empowered to review the case, if other valid grounds come into notice of the aggrieved party, in this case court will review the case

➤ **Case law**

It was held that review can only be made on the basis of some advanced grounds which were not produced at the time of decision made.

**6) Cases When review is not allowed**

Following are the case where review is not allowed. Details are as under.

9. Decision made by keeping in view the provision of law]
10. Decision made by keeping in view all the facts and evidences
11. Decision made by application of law
12. Decision made without any undue influence
13. When case already has been reviewed

**7) Modes of review**

Following of the two modes of review. Details are as under.

**a) On request of aggrieved person**

- Under the land revenue act 1967, the revenue court can originate review on the personal request of aggrieved person who thinks that the decision is not fulfilling the requirement of justice

**b) Suo moto**

- Under the land revenue act 1967, the revenue court can originate review on his own discretion when it thinks that the decision is not fulfilling the requirement of justice.

**8) Conclusion**

- To conclude I can say the under the provision of act, revenue court is empowered to review the case for which they have made their decision but aggrieved person has filed the case to review it because such decision does not complete the requirments of justice and has an error in it. There are certain reasons due to them a revenue court can review the decision

## **Q 10: What is question of title? What are the essentials and who can dispose of question of title and procedure of disposal?**

### **1) Introduction**

- Under the revenue act 1967, the question of title arises at that time when joint owner and co-tenants wanted partition of their land due to any reason, in order to proceed partition revenue officer initially will ensure the question of title if the partition is needed by parties on the question of title. Revenue officer has been empowered by the revenue court to decide the question of title. The civil court can also determine the question of title.

### **2) Relevant Provision**

- Section 140 & 141 of the Land Revenue Act 1967 deals with question of title.

### **3) Definition of Question of title**

- Question of title is dispute between the co-sharer of the land which empowers the owners of the property to control and dispose of his property without any restriction

### **4) Essentials of Question of title**

Essentials of question of title are as under.

- ✓ Co-ownership of a land
- ✓ Co-tenancy of a land
- ✓ Intention of partition
- ✓ Dispute between the parties

### **5) Authorities who can dispose of question of title**

Following are the authorities who can dispose the question of title under the provision of land revenue act 1967.

#### **i. Revenue officer**

- Under the land revenue act 1967, the land revenue officer can dispose the question of title if a suit has been filed to him by the parties

#### **ii. Revenue court**

- Under the land revenue act 1967, the revenue court can dispose the question of title if a suit has been filed in it before the parties

#### **iii. Civil court**

- Under the land revenue act 1967, the civil court can dispose the question of title if a suit has been filed in it by the parties

## **6) Discretionary powers of revenue officer**

- Under the land revenue act 1967, revenue officer has discretionary power to question of title; it is his own discretion whether he decides the question by himself or directs the parties to file the case for determination in the civil court.

## **7) Position of revenue officer**

Following actions of the revenue officer show the position of a revenue officer in respect of disposal of question of title.

### **a) Act as Revenue officer**

- At the time of proceeding for partition of the land, the revenue officer acts as a revenue officer

### **b) Act as Revenue court**

- At the time of deciding of question of title, the revenue officer acts as a revenue court

### **c) Act as Civil court**

- At the time of deciding of question of title, the revenue officer acts as a civil officer

## **8) Limitations on revenue officer**

Following are the limitations on the revenue officer in respect of partition of the land.

### **a) Execution of partition**

- Under the land revenue act 1967, the revenue officer cannot execute the partition unless and until he decide the question of title first

### **b) Fixation of time period**

- Under the land revenue act 1967, the revenue officer cannot fix the time period of execute the partition after the decision of the civil court

## **9) Procedure for disposal of question of title**

Following are the procedures of disposal of question of title.

### **I.Stay the proceedings**

- Under the land revenue act 1967, the revenue officer shall stop to proceed the execution of the partition until question of title is decided



## **II.Suspension of the proceedings**

- Under the land revenue act 1967, the revenue officer shall suspend the execution of the partition until question of title is decided

## **III.Failure of party to file civil case**

- Under the land revenue act 1967, if the parties get failed to file a case in the civil court, in this case the revenue officer by his own either decide the question of title

## **IV.After decision of civil court**

- Under the land revenue act 1967, after receiving the court order, the revenue officer will execute the partition of land

## **10) Appeal**

- Under the land revenue act 1967, an aggrieved person can appeal before the district judge if he seems that order passed by the revenue officer does not meet the requirements of justice and also can appeal before the high court if aggrieved person seems that order passed by the district judge does not meet the requirements of justice

## **11) Conclusion**

- To conclude i can say that question of title is basically a dispute between the parties who wanted partition of the land but revenue officer is under an obligation to decide the question of title before execution of partition and board of revenue has vested vast powers to the revenue officer in this regard.

# Punjab tenancy Act 1887

## Part 2.Q 01: Discuss the relevant law regarding the establishment of right of occupancy under the Punjab Tenancy Act.

### 1) Introduction

- The right of occupancy is a document of occupancy which grants to acquire an immoveable property of the government and it is given by the superior authority of the state. However such acquisition of land is regulated under the provisions of Punjab Tenancy Act 1991. The holder of certificate of occupancy is entitled to do whatever he wants with the land for example freedom of cultivation of any seed or rent it out etc.

### 2) Relevant Provision

- Section 5, 7, 8, 9 and 10 of the Punjab Tenancy Act 1991 deals with right of occupancy.

### 3) Definition of Right of occupancy

- The right of occupancy is such right where a person is entitled to build houses, grazes on the government land, and a person who is not the owner of the property

### 4) Persons who can establish right of occupancy

Following are the persons who can establish the right of occupancy. Details are as under.

#### a) Hereditary tenant

- Under the Punjab Tenancy Act 1991, the hereditary tenant is such person who can acquire right of occupancy on land.

#### ➤ Who may be hereditary tenant?

1. The person who is Settled in the land since more than two generations
2. The person who is settled in the land more than 20 years of time period
3. The person who is settled in the land but do not pay the rent of land but revenue tax

#### b) Landlord

- Under the Punjab Tenancy Act 1991, the landlord is such person who can acquire right of occupancy on land.

➤ **Who may be landlord?**

1. The person who ever was the owner of the property
2. The person whose ownership was ceased by the government other than voluntarily as well as forfeiture of property by government
3. The person who continuously occupying the land since he was ceased as owner

**c) Inhabitants**

- Under the Punjab Tenancy Act 1991, the inhabitant is such person who can acquire right of occupancy on land.

➤ **Who may be inhabitant?**

1. The person who is settled in the land since Oct 1968 as a cultivator of land or as resident in the land
2. The person who is settled in the land since Oct 1968 as resident in the land
3. The person who continuously occupying the land since 1968

**d) Jagirdar**

- Under the Punjab Tenancy Act 1991, the jagirdar is such person who can acquire right of occupancy on land.

➤ **Who may be jagirdar?**

1. The person who is political person of the state
2. The person who is jagirdar of the land not less than 20 year of time period
3. The jagirdar who continuously occupying the land since 20 years of period

**5) Right of Occupancy on other grounds**

- Under the provision of Punjab Tenancy Act 1991, it is mentioned that no one can establish the right of occupancy on the base of other grounds which has been prescribed in the act.

**6) Right of occupancy on the base of laps of time**

- Under the provision of Punjab Tenancy Act 1991, it is mentioned that the right of occupancy cannot be established on the base of laps of time until tenant qualifies as hereditary tenant, lord, inhabitant or jagirdar and occupying the same land not less than the period of 20 years for which right of occupancy is raised by the tenant.

## **7) Right of occupancy in joint ownership**

- Under the provision of Punjab Tenancy Act 1991, it is mentioned that any one of the joint owners of a land cannot acquire the right of occupancy on such land which is owned by multiple owners of it.

### **➤ Case law**

It was held that the possession of a tenant as co-tenants of a land for a few year does not provides right of occupancy on the other co-tenants of the land

## **8) Right of occupancy in case of exchange of right**

- Under the provision of Punjab Tenancy Act 1967, it is mentioned that if any tenant voluntarily exchanges the land on the place of other land, in this case all the rights will be along with the tenant which were along with him for the previously changed land.

## **9) Rights of tenant**

Following are the rights of tenants. Details are as under.

### **a) Right to cultivation**

- Under the provision of act, the tenant has been vested with the right of cultivation of land; he can cultivate everything on the land such as maize, wheat or whatever he wants.

### **b) Right of division of production**

- Under the provision of act, the tenant has been vested with the right of division of production of the land and everything would be divided among all the co-tenants

### **c)Right of possession**

- Under the provision of act, the tenant has been vested with the right of possession of of the land and rent also will be paid by co-tenants equally.

## **10) Conclusion**

- To conclude I can say that under the Punjab Tenancy Act 1991 the acquisition of right of occupancy can only be established by four ways, one of them is based on hereditary tenancy, lordship, inhabitation or in case when a person is jagirdar of a state. It is also provided that no one can establish the right of occupancy on the basis of laps of time only.

## **Part 2.Q # 02: What are the grounds of ejectment of tenant?**

### **1) Introduction**

- Under the Punjab Tenancy Act 1991, ejectment is a complaint which is made by the owner of real property to exclude a party from the land unlawfully occupied. There are several reason for which an unlawful occupant can be ejected for example for example, a temporary occupant who has never paid rent but now refuses to leave in this case real owner will file a case for ejectment of occupant

### **2) Relevant Provision**

- Section 39, 40, 41, 42 and 47 of the Punjab Tenancy Act 1991 deals with the ejectment of tenant

### **3) Definition of Ejectment**

- Ejectment is a legal remedy to resolve conflicts between a landlord and tenant which is used to remove a person from wrongfully occupying real estate. Ejectment can be availed if a landlord shows that he has a legal right to the property, and the occupier has no legal right.

### **4) Definition of Tenant**

- Tenant is a person who holds a land from the owner of the land by making an agreement to pay rent for such occupation

### **5) Grounds for ejectment of tenant**

Following are the grounds of ejectment of tenant when tenant will have to leave the land. It is classified under the following categories.

#### **a) Grounds for ejectment of Occupancy tenant**

##### **A. Use of land in different manners**

- If the land is being used in different manner by the tenant for which it was acquired, in this case the owner of the real property will file a case for ejectment of the tenant from the land.

##### **B. Failure of tenant to pay the rent**

- If the tenant is getting failed to pay the rent when it becomes due or when it is demanded, in this case the owner of the real property will file a case for ejectment of the tenant from the land.

##### **C. Term of tenancy comes to an end**

- If the period of tenancy comes to an end according to the agreement signed between the tenant and the landlord, and tenant is not leaving the land accordingly, in this case the owner of the real property will file a case for ejectment of the tenant from the land

**b) Grounds for ejectment of tenant of fixed term**

Fixed term tenancy is such tenancy when amount of time is written in the agreement between the tenant and the owner such as one year. It comes to an end with the expiry of prescribed time period

**A. Use of land in different manners**

- Under the periodic tenancy if the land is being used in different manner by the tenant for what it was acquired, in this case the owner of the real property will file a case for ejectment of the tenant from the land.

**B. Failure of tenant to pay the rent**

- Under the period tenancy, If the tenant is getting failed to pay the rent when it becomes due or when it is demanded, in this case the owner of the real property will file a case for ejectment of the tenant from the land.

**C. Term of tenancy comes to an end**

- If the period of tenancy comes to an end according to the agreement signed between the tenant and the landlord, and tenant is not leaving the land accordingly, in this case the owner of the real property will file a case for ejectment of the tenant from the land

**c) Ejectment of tenant from year to year**

Year to year tenancy is such tenancy in which time period is not fixed and tenant can be ejected on the end of any agriculture year.

**A. Use of land in different manners**

- If the land is being used in different manner by the tenant for which it was acquired, in this case the owner of the real property will file a case for ejectment of the tenant from the land.

**B. Failure of tenant to pay the rent**

- If the tenant is getting failed to pay the rent when it becomes due or when it is demanded, in this case the owner of the real property will file a case for ejectment of the tenant from the land.

**C. Term of tenancy comes to an end**

- If the period of tenancy comes to an end according to the agreement signed between the tenant and the landlord, and tenant is not leaving the land accordingly, in this case the owner of the real property will file a case for ejectment of the tenant from the land

## **6) Limitations on Ejectment**

Following are the some limitations and restricts on the ejectment of the tenant from the land.

1. If there is not order of the court has been passed for ejectment of the tenant, the tenant will not be ejected at any cost
2. If the tenant is paying all his dues timely according to the agreement signed by him, the tenant will not be ejected at any cost
3. If the tenant is using the land in the same manners for what the land is taken by him, the tenant will not be ejected at any cost
4. In case of periodic tenancy, if the period of tenancy is not expired, the tenant will not be ejected.

## **7) Order to pay compensation**

- Under the provision of act, the revenue officer if thinks fit that the tenant should not be ejected and gives an order to pay the amount of compensation to the land owner instead of ejection from the land.

## **8) Right of tenant**

- Under the provision of act, some rights have been vested to the tenant according to these right the tenant shall be able to collect his uncut, and standing crops from the fields before ejectment

## **9) Conclusion**

- To conclude i can say that ejectment of the tenant is a legal right of landowner if the tenant gets failed to comply the rules and regulations of the agreement. Punjab Tenancy Act 1991 has vest some rights to the landlord as well as to tenant in order to maintain smooth social operations among the citizens of the state.

## **Part 2.Q 03: What are the limits of holding for personal cultivation under the Punjab Tenancy Act 1991?**

### **1) Introduction**

- Under the Punjab Tenancy Act 1991, no one is entitled to have possession of land more than the prescribed area of cultivation of land, some limits have been imposed by the act in this regard which prohibits the tenant to get more land as prescribed. If someone has joint possession of land then share of his possession must be less than from prescribed area in acres. While holding of possession of land more than prescribed area of land is unlawful in the eye of law.

### **2) Definition of Holding**

- Holding is a term which describes that in which a particular piece of land owned by an individual is called “hold” the land

### **3) Limits of holding for personal cultivation**

Following are the limits of holding of a land for personal cultivation. Details are as under.

#### **I. In case of 100 Acres of Land**

- Under the provision of act, no one is entitled to have possession 100 acres of land for personal cultivation. If he own, it is unlawful and he will have to leave the land and it will be given to any other tenant by the revenue officer

#### **II. In case of 25 Acres of land**

- Under the provision of this act, if a tenant who has possession of 25 acres of land shall not be given more land for personal cultivation under the provision of sub-section 2, 3, 4 and 5.

#### **III. In case of failure to find new tenant**

- Under the provision of act, if the revenue officer gets failed to find new tenant to hand over the land to him, in this case former occupant of the land will continue to use the land for cultivation even after in excess of the prescribed limit.

#### **IV. In case of cattle farm**

- Under the provision of this act, if the land is being used for cattle farming in this case the tenant shall be exempted from the provisions of this section but it does not mean that the owner is entitled to use this land for personal cultivation



➤ **Explanation**

- A cattle farm means a farm of agricultural land which is cultivated for the purposes of breeding of cattle of the farms.

**V. In case of government notification**

- Under the provision of this act, government by notifying in the official gazette can exempt any person to owning the land for personal cultivation by execution of this notice

**VI. In case of Banjar Land**

- Under the provision of this act, if a land which is banjar shall not be given to any tenant for personal cultivation

**VII. In case of Garden**

- Under the provision of this act, if a land which is Garden shall not be given to any tenant for personal cultivation

**VIII. Right of exchange**

- Under the provision of act, it is prescribed that the tenant of the land has a right to exchange the area of 50 acres with any land in which he may acquire proprietary rights or inheritance rights etc.

**4) Prohibition of suit against the government**

- Under the provision of this act, it has been mentioned that no judicial proceedings shall be initiated by the government as well as against any officer of the board of revenue in respect of imposition of limits prescribed in the act for personal cultivation. But if the government or any official of the board of revenue violates the rules of this act, in this case aggrieved tenant can take judicial action against the authorities.

**5) Remedies available to aggrieved tenant**

Following are the remedies to the aggrieved tenant.

✓ **Suit against the government**

- Under the provision of this act, if any tenant who has been unlawfully dispossessed from the possession of land, in this case he has a right to file a case against the government for recovery of possession of land

✓ **Suit against the official**

- Under the provision of this act, if any tenant who has been unlawfully dispossessed from the possession of land, in this case he has a right to file a case against the government for recovery of possession of land

✓ **Suit for recovery of compensation**

- Under the provision of this act, if any tenant who has suffered a loss in case of unlawful dispossession from the possession of land, in this case he has a right to file a case for recovery of compensation either from government or from any official of board of revenue who is responsible for such loss.

**6) Objective of limitation**

Following are the objectives of limitations on personal cultivation.

**1. Prescription of amount of land**

- The object of limits of holding for personal cultivation is to prescription of amount of land so that any tenant does not exceed prescribed limit for acquisition of land for personal cultivation

**2. Initiation of suit**

- Another object of limitation is initiation of the suit against the tenant if he violates the rules or against the government or any official who misuses of his powers outside his jurisdiction

**7) Conclusion**

- To conclude i can say that the Punjab Tenancy Act 1887 has defined or imposed some limitations on personal cultivation of land by the tenant and executes such limits by using the force of the state. Furthermore some rights in respect of tenants have also been provided by the act in order to secure them from misuse of powers of the government and other officials of it.

# Pre-emption act 1991

## Part 3.Q 01: Define Pre-Emption. What are the qualification for acquisition of pre-emption and discuss the persons who are entitled to claim this right?

### 1) Introduction

- Under the pre-emption act 1991, right of pre-emption is a legal right to purchase a particular property from the owner before it is offered to any other person. This right comes into existence if owner wants to sale his property if he wants to gift, devotes or gives his property on lease; in this case this right will not come into force.

### 2) Relevant Provision

- Section 6 of the Pre-emption Act 1991 deals with the right of pre-emption

### 3) Definition of Pre-emption

- Right of pre-emption is such right which comes into existence at the time of sale of property before it is offered to other person by the owner

### 4) Persons who qualify for right of pre-emption

Following are the persons who qualify for the right of pre-emption.

- ✓ Everyone who is Male, qualifies to acquire the right of pre-emption
- ✓ Everyone who is Female, qualifies to acquire the right of pre-emption
- ✓ Everyone who is Minor, qualifies to acquire the right of pre-emption
- ✓ Everyone who is Major, qualifies to acquire the right of pre-emption
- ✓ Everyone who is Owner, qualifies to acquire the right of pre-emption

### 5) Persons who can claim right of pre-emption

Following are the persons who can claim right of pre-emption under this act.

#### I.Shafi Shareek

- Shafi Shareek is a person who is co-owner of the joint immoveable property which is being sold, in case of sale of such property, the co-owner is entitled to claim pre-emption for acquisition of such property by way of law before it is offered to another person.

#### II.Shafi Khaleet

- Shafi Khaleet is a person who has some rights such as right of way, right of light or right of water flow attached with the immoveable property which is being sold, Such person is called shafi khaleet who is entitled to claim pre-emption for acquisition of such property by way of law before it is offered to another person for sale

➤ **Conditions**

- Some conditions have been imposed on Shafi Khaleet for acquisition of right of pre-emption. Details are as under.

**A. Shafi Shareek**

Shafi Khaleet only can acquire the right of pre-emption if there is no shafi shareek.

**B. Shafi Shareek waived his right**

Shafi Khaleet only can acquire the right of pre-emption if the shafi shareek has waived his right.

**III.Shafi jar**

- Shafi Jar is a person whose immoveable property is adjacent with the that immoveable property which is being sold, Such person is called shafi Jar who is entitled to claim pre-emption for acquisition of such property by way of law before it is offered to another person for sale

➤ **Conditions**

- Some conditions have been imposed on Shafi Jar for acquisition of right of pre-emption. Details are as under.

**a) Shafi Shareek and Khaleet**

Shafi Jar only can acquire the right of pre-emption if there are no shafi shareek and shafi Khaleet

**b) Shafi Shareek and khaleet waived his right**

Shafi Khaleet only can acquire the right of pre-emption if the shafi shareek and khaleet have waived their right.

**6) When Right of pre-emption arises**

On the sale of following properties the right of pre-emption arises and pre-emption can claim this right according to the law.

1. On sale of Agricultural property
2. On sale of Village Immoveable property
3. On sale of urban immoveable property

**7) Method of distribution in case of more than one pre-emptors**

- Under the Pre-emption act 1991, if there are a number of pre-emptors who have claimed their right of pre-emption, in this case the property pre-empted shall equally be distributed among all the persons who have claimed for it.

#### **8) In case of death of pre-emptor**

- Under the pre-emption act 1991, in case of death of pre-emptor or pre-emptors who had claimed their rights of pre-emption, such right would be transferred to their legal heirs if any.

#### **9) Extinction of right of pre-emption**

Following are the ways when right of pre-emption is distinguished.

- ✓ In case of death of pre-emptor
- ✓ In case of failure to deposit the prescribed amount
- ✓ In case of time barred
- ✓ In case of invalidity of pre-emptor
- ✓ In case of waiving his right by pre-emptor

#### **10) Objectives of pre-emption**

Following are the objectives of right of pre-emption.

1. To discourage the strangers
2. To protect the owner from discrimination
3. Provision of easement to the shafi's

#### **11) Conclusion**

- To conclude i can say that pre-emption is a right which has been vested to shafi who can acquire this right in case of sale of agricultural land, village immoveable property or urban immoveable property. There are three kinds of pre-emptors such as Shafi Khaleet, shafi Shareek and Shafi Jar.

## **Part 3.Q 02 What are the essentials requirements to demand a right of pre-emption?**

### **1) Introduction**

- Under the pre-emption act 1991, right of pre-emption is a legal right to purchase a particular property from the owner before it is offered to any other person. This right is acquired by demand from a person who has right of pre-emption. If the demand is not made by the pre-emptor in this case the right of pre-emption will come to end.

### **2) Relevant Provision**

- Section 13 of the Pre-emption Act 1991 deals with the essentials requirements to demand right of pre-emption

### **3) Definition of Pre-emption**

- Right of pre-emption is such right which comes into existence at the time of sale of property before it is offered to other person by the owner

### **4) Persons who qualify for right of pre-emption**

Following are the persons who qualify for the right of pre-emption.

- ✓ Everyone who is Male, qualifies to acquire the right of pre-emption
- ✓ Everyone who is Female, qualifies to acquire the right of pre-emption
- ✓ Everyone who is Minor, qualifies to acquire the right of pre-emption
- ✓ Everyone who is Major, qualifies to acquire the right of pre-emption
- ✓ Everyone who is Owner, qualifies to acquire the right of pre-emption
- ✓ Everyone who is agent of owner, heir of owner, qualifies to acquire the right of pre-emption

### **5) Essentials for demand of right of pre-emption**

Following are the essentials of demand of right of pre-emption. If pre-emptor does not make a demand of his right in this case such right will come to an end.

#### **I.Talab-e-Muwathbat**

- Talab-e- Muwathbat is meant when pre-emptor comes to know about the sale of property upon which he has a right of pre-emption, he immediately makes a demand for pre-emption and shows his intention to get the property

➤ **Conditions**

- Some conditions have been imposed on Shafi for making a demand for right of pre-emption. Talab is demanded:
  1. When shafi comes to know about the sale of property
  2. When sale is completed
  3. Whenever he knows about facts in any meeting

**II.Talab-e-Ishad**

- Talab-e-Ishad is meant when pre-emptor comes to know about the sale of property by acquisition an evidence from an authentic source, in this case as soon as possible he shall send a notice attested by two truthful witnesses within the two weeks from the date of knowledge and show his intention to get the property by exercising this right

➤ **Conditions**

- Some conditions have been imposed on Shafi for making a demand for right of pre-emption. Talab-e-Ishad:
  1. It should be made within two weeks after knowledge
  2. It should be made either in writing or oral
  3. There should be minimum two witnesses

**III.Talab-e-Khusumat**

- Talab-e-khusumat is meant pre-emptor comes to know about the sale of property and file a case in the court to demand his right of pre-emption and show his intention to get the property by exercising this right

➤ **Conditions**

- Some conditions have been imposed on Shafi for making a demand for right of pre-emption. Talab-e-Khusumat:
  - 1) It should be made within 120 days after Talab-e- Ishad
  - 2) It should be made before the competent court of law

**6) When Right of pre-emption arises**

On the sale of following properties the right of pre-emption arises and pre-emption can claim this right according to the law.

1. On sale of Agricultural property
2. On sale of Village Immoveable property
3. On sale of urban immoveable property

### **7) Method of distribution in case of more than one pre-emptors**

- Under the Pre-emption act 1991, if there are a number of pre-emptors who have claimed their right of pre-emption, in this case the property pre-empted shall equally be distributed among all the persons who have claimed for it.

### **8) In case of death of pre-emptor**

- Under the pre-emption act 1991, in case of death of pre-emptor or pre-emptors who had claimed their rights of pre-emption, such right would be transferred to their legal heirs if any.

### **9) Extinction of right of pre-emption**

Following are the ways when right of pre-emption is distinguished.

- ✓ In case of death of pre-emptor
- ✓ In case of failure to deposit the prescribed amount
- ✓ In case of time barred
- ✓ In case of invalidity of pre-emptor
- ✓ In case of waiving his right by pre-emptor

### **10) Limitation on demand of pre-emption**

Following are the some limitations which have been imposed on demand of pre-emption.

If the transfer of land is not complete sale  
If transferee has superior right of pre-emption  
If time has been barred  
If pre-emptor is not entitled for such right

### **11) Conclusion**

- To conclude i can say that pre-emption is a right which has been vested to shafi who can acquire this right by way of demand, there are certain types of demand such as immediate demand, demand by evidence and demand by suit in court. Pre-emptor can demand if he lawfully is entitled to use this right.



## **Part 3.Q # 03: What are the guidelines prescribed by the law for the determination of market value of the property?**

### **1) Introduction**

- Under the pre-emption act 1991, Land acquisition refers to the process by which government forcefully acquires private property for public purpose without the consent of the land owner. In this case the court is empowered to evaluate the market price of the neighborhood land. This act has provided certain guidelines in this regard.

### **2) Relevant Provision**

- Section 27 & 28 of the Pre-emption Act 1991 deals with the market value of the land.

### **3) Definition of Market Value**

- Market value is meant the estimated amount of the property at the time of sale upon which both seller and buyer are agreed.

### **4) Determination of Market Value**

Under the Pre-emption Act 1991, following are the parameters which would be considered during determination of the market value of the property to compensate the owner. Following are the some positive factors and negative factors which shall be considered by the court.

#### **A. Positive factors to be determined**

Following are the some positive factors for determination

##### **I.Value of neighborhood land**

- During the determination of the market value of the property, the court will kept in mind the value of neighborhood land which is very attached to his land.

##### **II.Smallness of Size**

- During the determination of the market value of the property, the court will kept in mind the smallness of size of the property.

##### **III. Nearness to a road**

- During the determination of the market value of the property, the court will kept in mind the nearness of the property to a road.

#### **IV.Nearness to developed area**

- During the determination of the market value of the property, the court will kept in mind the nearness of the property to a developed area.

#### **V.Frontage on a road**

- During the determination of the market value of the property, the court will kept in mind the frontage on a road.

#### **VI.Regular shape**

- During the determination of the market value of the property, the court will kept in mind the regular shape of the property.

### **B. Positive factors to be determined**

Following are the some negative factors for determination

#### **i.Largeness of area**

- During the determination of the market value of the property, the court will kept in mind the largeness of size of the property.

#### **ii.Distance from the road**

- During the determination of the market value of the property, the court will kept in mind the distance of the property from the land.

#### **iii.Distance from the developed area**

- During the determination of the market value of the property, the court will kept in mind the distance of the property from developed area.

#### **iv.Small frontage of land**

- During the determination of the market value of the property, the court will kept in mind the smallness of frontage of the property.

#### **v.Irregular shape**

- During the determination of the market value of the property, the court will kept in mind the irregular shape of the property.

#### **vi.Some special disadvantageous factors**

- During the determination of the market value of the property, the court will kept in mind some special disadvantages of land which would deter purchaser.

## **5) When market value is determined**

- Under the provision of act, market value of the land is determined at that time when one of the seller or buyer is not agreed upon the price of the land in this case one of them files a case in the court for determination of the market value of the property.

## **6) Objective of determination of market value**

Following are the some objectives of determination of market value in favor of owner as well as pre-emptor.

### **i.Provision of fair compensation**

- Under the Pre-emption act 1991, the main objective of determination of market value of the property is to provide fair and justice price of the land the owner whose land has been acquired by the government for public purposes.

### **ii.Settlement of owner**

- Under the Pre-emption act 1991, another objective of determination of market value of the property is to help the owner to sustain in future whose land has been acquired by the government for public purposes.

### **iii.Check on government**

- Under the Pre-emption act 1991, another objective of determination of market value of the property is to control the government acts so that the government may not use his power unlawfully and violate the rights of the citizen by acquiring the land on law prices.

## **7) Conclusion**

- To conclude i can say that the market value of the property is determined by the court of law on the request of either party and court is empowered to evaluate the value of the property of the land by using different principles for the same.