

Himachal Pradesh Tenancy And Land Reforms Rules, 1975

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Himachal Pradesh Tenancy And Land Reforms Rules, 1975

PART 1 PART I

1. Short title, extent and commencement :-

- (1) These rules may be called the Himachal Pradesh Tenancy and Land Reforms Rules, 1975.
- (2) They extend to the whole Himachal Pradesh.
- (3) They shall come into force at once.

2. Definitions :-

In these rules, unless there is anything repugnant in the subject or context,-

- (a) "Act" means the Himachal Pradesh Tenancy and Land Reforms Act, 1972: (8 of 1974)
- (b) "estate" has the same meaning as has been assigned to it in the Punjab Land Revenue Act, 1887 (17 of 1887) or the Himachal

Pradesh Land Revenue Act, 1954 (6 of 1954) as the case may be;
(c) "form" means a form appended to these rules;
(d) "section" means section of the Act; and
(e) all other words and expressions used in these rules but not defined in these rules shall have the meanings respectively assigned to them in the Act.

PART 2 PROCEDURE FOR REVENUE OFFICERS FOR THE PURPOSES OF CHAPTERS II TO VIII OF THE ACT

3. Statements and pleadings and verification of applications :-

(1) The statements and pleadings made by or on behalf of parties to a revenue proceedings, whether oral or written, shall be as brief as the nature of the case admits, and shall not be argumentative, but shall be confined as far as possible to simple and concise narrative of the facts which the party by whom or on whose behalf the statement of pleading is made believes to be material to the case, and which he either admits or believes that he will be able to prove.

(2) Every written application or statement filed by a party to a revenue proceeding shall be drawn up and verified in the manner provided by the Civil Procedure Code for written statements in suits.

4. Proceeding not to abate on death or marriage of party :-

The death of one of the parties to a revenue proceedings, or in proceeding to which a female is a party, her marriage shall not cause the proceeding to abate And the Revenue Officer before whom the proceeding is held shall have power to make the successor-in-interest of the deceased person or of the married female a party thereto.

5. Procedure for fixing dates for hearing etc :-

In fixing dates for the hearing of parties and their witnesses in adjourning proceedings, and dismissing applications for default or for other sufficient reason, a Revenue Officer shall, so far as the nature of the case requires or permits, be guided by principles of the procedure for the time being in force in Revenue Courts.

6. Expenses of witnesses :-

(1) A Revenue Officer may at his discretion award to a witness attending on summons, a sum on account of his expenses not exceeding the sum to which the witness would have been entitled for a like attendance in a Civil Court.

(2) The sum so awarded shall be costs in the proceeding.

7. Record of other proceedings under the Act :-

In proceedings before a Revenue Officer under the Act, the Revenue Officer shall make with his own hand a brief memorandum of the statement of parties and witnesses at the time when such statement is made.

8. Contents of order :-

In every proceeding in which an order is passed on merits after inquiry, the Revenue Officer making the order shall also record a brief statement of the reasons on which it is founded.

9. Apportionment of cost and recovery thereof :-

(1) In proceedings which costs have been incurred the final order shall apportion the costs between the parties to the proceedings.

(2) Costs thus apportioned shall be recoverable by the Revenue Officer by attachment and sale of the movable property of the person liable for the same in the manner prescribed in section 70 of the Punjab Land Revenue Act, 1887 (17 of 1887) or section 76 of the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954) as the case maybe.

10. Execution of order of ejectment etc :-

(1) Orders of ejectment from, and delivery of possession of immovable property shall be enforced in the manner provided in the Code of Civil Procedure for the time being in force in respect of the execution of decree whereby a Civil Court had adjudged ejectment from, or delivery or possession of such property.

(2) And in the enforcing of these orders a Revenue Officer shall have at the powers in the matter of resistance and the like which a Civil Court may exercise in the execution of a decree of the description mentioned in sub-rule (1).

10A. Devolution of tenancy rights :-

No entry showing a person to be a tenant by succession under section 45 or otherwise shall be made in the record, except through a mutation.

PART 3 TEMPORARY DISABILITY UNDER CLAUSE (D) OF SECTION 30 AND RELINQUISHMENT OF TENANCY UNDER SECTION 31

11. Temporary disability for the purpose of section 30 :-

For the purpose of clause (d) of sub-section (1) of section 30 a land-owner who is-

- (a) temporarily an idiot or a lunatic; or
- (b) a person incapable of cultivating by reason of blindness or other physical infirmity, or
- (c) prosecuting studies in a recognised institution and does not exceed 25 years in age and whose father or mother as the case may be either suffers from any of the disqualification mentioned in clause (a) or (b) of the said sub section or has died; or
- (d) under detention or imprisonment, shall be treated as temporarily disabled.

12. Relinquishment of land under section 31 :-

(1) If a non-occupancy tenant wants to make a voluntary surrender of his tenancy land in favour of the Government under section 31, he shall apply to the Collector in Form LR-I On receipt of the application, the Collector shall record the statement of the tenant and after having satisfied himself of the fact of voluntarily relinquishing pass order that the tenant has voluntarily surrendered his tenancy land in favour of the Government. Thereafter, the Collector shall cause the taking over of the possession of the land through the Tehsildor concerned in favour of the Government.

(2) On having taken over the possession of the tenancy land under sub-rule (1), the Collector shall cause the necessary entry to be made in the Land Records substituting the right of the Government on the relinquished tenancy in place of the tenant and shall take possession of the land on behalf of the State Government.

(3) The Collector shall sub-let the land to the landless agricultural labourers or to those tenants whose land holding shall fall short of one acre as a result of resumption of tenancy land by the land-owners under sub-section (1) of section 104.

PART 4 ACQUISITION OF PROPRIETARY RIGHTS BY OCCUPANCY

TENANTS

13. Attestation of mutation :-

As soon as may be after the appointed day the Assistant Collector of the 2nd Grade of the tehsil or sub-tehsil as the case may be will attest the mutations of proprietary rights of the tenancy land in favour of the occupancy tenants after making a summary enquiry.

14. Preparation of Statement under section 96 :-

(1) Soon after the mutations have been attested; the Patwari shall prepare a statement estate-wise in Form LR-2 and submit the same to the Land Reforms Officer concerned. On receipt of the statement, the Land Reforms Officer shall issue notice in Form LR-3 to the land-owners and the tenants who have acquired proprietary rights asking them to be present before him on the date and place to be mentioned in the notice.

(2) The occupancy tenants who have acquired ownership rights or the land-owner concerned may file objections, if any, to the Land Reforms Officer regarding the amount proposed to be paid within 15 days of the receipt of the notice.

15. Determination of amount and apportionment thereof :-

In case there are objections regarding the proposed amount the Land Reforms Officer will give a hearing to the parties and will determine the amount payable to the land-owners and apportion the amount among the land-owners where there are more than one according to their respective shares.

16. Manner of service of notices :-

Notices under Chapter IX of the Act shall be served in the manner prescribed in Section 71 of the Act for the mode of service of summons.

17. Form of manner of appeals :-

(1) An appeal under Section 100 of the Act shall be preferred either personally or through a legal practitioner or recognised agent and the grounds of appeal shall be accompanied by a certified copy of the order appealed against.

(2) An appeal shall be made on-

- (a) one rupee court fee stamp paper, when made to the Collector; and
- (b) two rupees court fee stamp paper, when made to the Commissioner.

18. Stamp duty on application for revision :-

An application for revision to the Financial Commissioner shall be made on a Court fee stamp of four rupees and shall be accompanied by a certified copy of the order sought to be revised.

19. Application to be free of stamp duty :-

All applications under Chapter IX of the Act shall be on judicial papers and no stamp duty except as expressly provided in rules 17 and 18 shall be chargeable.

20. Maintenance of register of amount :-

A register of the amount received from the tenant for payment to the land-owners shall be maintained in Form LR-IV in the office of the Land Reforms Officer concerned to ensure timely recovery of dues of the land-owners from the tenants and its payment to the land-owners. In case of amount payable to the State Government the Land Reforms Officer shall deposit the same into the Government Treasury or Sub-Treasury, as the case may be, under the relevant Head of Account.

PART 5 ACQUISITION OF PROPRIETARY RIGHTS BY NON-OCCUPANCY TENANTS

21. Application for resumption of land by the land-owner under section 104 :-

(1) A land-owner who intends to resume land for his personal cultivation under section 104 shall himself or through an authorised person submit an application in Form LR-V in duplicate to the Land Reforms Officer in whose jurisdiction the land is situated. In filling up the Form the land-owner shall be assisted by the Patwari concerned.

(2) The period for submission of application under sub-rule (1) above is:-

(i) for the land-owners other than those mentioned in sub-section (8) of section 104 within one month from the date of

commencement of these rules;

(ii) for the minors within 6 months from the date of attainment of majority;

(iii) for members of Armed Forces mentioned in clauses (c) and (d) of sub-section (8) of section 104 within 3 years from the date on which they cease to be the members of the Armed Forces.

22. Manner of selection of land for resumption :-

The Land Reforms Officer shall issue receipt of the Form LR-V received by him under sub-rule (1) to the land-owner in Form LR-VI. If the land of the land-owner is with more than one tenant from whom he intends to resume land under the provisions of section 104, he shall select the land for resumption from the tenant holding the largest area of tenancy land and then from the tenants who hold lesser tenancy land in descending order. The land-owners who hold the tenancy land jointly, they shall resume the land with respect to their shares keeping in view the principles of consolidation of holdings.

23. Conversion ratio for the purpose of section 104(1)(iv) :-

In case the land-owner intends to reserve both classes of land i.e. irrigated and unirrigated the conversion ratio for such reservation shall be 1:2:

Provided that the total area should not exceed 3 acres when better class of land is converted into the inferior class.

24. Procedure for dealing with applications for resumption :-

(1) On the receipt of the application under rule 21 the Land Reforms Officer shall issue a 10 days notice in Form LR-VII to the parties asking them to be present before him on the date and place (within patwar circle) to be mentioned in the notice. On the date so fixed the Land Reforms Officer will hear the parties and if the selection of the land made by the land-owner under rule 22 is mutually agreed upon by the parties, the Land Reforms Officer shall pass an order about the extinguishment of the rights of the tenant in such land. He shall further order that the possession of the land be given to the land-owner from the date to be specified in the order. At the same time regarding the remaining land of such tenant or tenants the Land Reforms Officer shall confer proprietary rights on

such tenant or tenants, as the case may be.

(2) Where the selection of land made by the land-owner under rule 22 is not mutually agreed upon between the parties, the land Reforms Officer, shall ask the tenant to exercise the right of selection of land, in writing within one month from the date of issue of notice under sub-rule (1). On receipt of the choice of the tenant within the said period of one month the land Reforms Officer shall hear the parties, and after having satisfied himself that the land-owner is entitled to resume land under the provision of section 104 of the Act shall pass orders regarding the land chosen to be retained by the tenant and also in respect of the land to be resumed by the land-owner for personal cultivation, within two months from the date of receipt of Form LR-V under sub-rule (1) of rule 21. He shall further order the extinguishment of right of tenancy on the land resumed by the land-owner and for handing over the possession of land to the land-owner by the tenant or tenants, as the case may be after the crop is harvested. Regarding the remaining land of the tenant or tenants, the land Reforms Officer shall confer proprietary rights of such land upon the tenant or tenants, and determine the amount payable by the tenant to the land-owner in respect of that land.

(3) Where part of the fields are involved in selection of land for resumption and to be left with the tenant the tatima shajras will be prepared by the Patwari and checked by the Field Kanungo. The Revenue Officer will also check 25% of the tatima shajras.

(4) While determining the amount payable by the tenant or tenants, as the case may be, to the land-owner for extinguishment of his rights in land mentioned in sub-rule (2), the land Reforms Officer shall follow the provisions of sub-section (5) of section 104.

25. Mutation :-

The order of the Land Reforms Officer passed under rule 24 shall be given effect to by way of mutation on the expiry of the period of limitation prescribed for appeal and revision in section 114. There will be two mutations in each case, one for extinguishment of tenancy rights and the other for extinguishment of ownership rights of land in question. The mutation fee chargeable in these mutations will be the same as that for giving effect to a decree of a Civil Court.

26. Disposal of land vested in State Government under sub-section (2) of section 104 :-

(1) In case the land-owner fails to bring under personal cultivation the land reserved by him under clauses (i) and (ii) of sub-section (1) of section 104 within one year from taking over the possession of the land the Patwari shall make a report to the Land Reforms Officer of such failure. On receipt of such a report the Land Reforms Officer shall issue a notice to the land-owner to show cause within fourteen days from the receipt of the notice as to why the land shall not vest in the State Government. On hearing the land-owner if the Land Reforms Officer comes to the conclusion that the land-owner has failed to cultivate the land without sufficient cause then he shall pass an order in writing under sub-section (2) of section 104 that such land vest in the State Government. The Land Reforms Officer may also order payment of amount to the land-owner at the rates prescribed in sub-section (2) of section 104. He shall also take possession of the land on behalf of the State Government and shall cause to make entry in the revenue records to this effect.

(2) On vestment of the land in the State Government under sub-rule (1), the Land Reforms Officer shall summon the tenant from whom the land owner resumed the land for personal cultivation and shall give him an option and the first choice to acquire the proprietary rights of the land on payment of the amount at the rate prescribed in sub-section (2) of section 104.

(3) In case that tenant agrees to acquire ownership rights of the land under sub-rule (2) he shall be asked to pay the amount in lump sum or in such number of six monthly instalments not exceeding ten during the period not exceeding five years from the date of order of the Land Reforms Office. The Land Reforms Officer shall at the same time pass an order for the delivery of possession of the land to such a person on payment of 1st instalment of the amount who acquires the proprietary rights under this sub-rule.

(4) In case the tenant does not exercise option under sub-rule (2) then the land will be allotted in the following order of preference on payment of 96 times the annual land revenue plus rates and cesses chargeable thereon: -

- (a) to landless agricultural labourers;
- (b) to village artisans; and
- (c) to members of scheduled castes and scheduled tribes.

27. Procedure for conferment of proprietary rights on tenants covered by sub-section (3) of section 104 :-

A All rights, title and interests in the tenancy land of land-owners who have already under their personal cultivation 3 acres un-irrigated or 1 1/2 acres irrigated land shall vest in the non-occupancy tenants with effect from the commencement of these rules. Similarly, the proprietary rights of tenancy land of the non-occupancy tenants on Government land shall also vest in the tenants from the commencement of these rules.

28. Attestation of mutations :-

(1) The Patwari will enter the mutation of ownership in the mutation register in favour of the non-occupancy tenants on whom proprietary rights under rule 27 vested and the Revenue Officer will attest the mutation in the

(2) Where a part of a held number is vested in a tenant tatima shajra; of such part will be prepared on the body of the mutation sheets.

29. Determination of disputes under sub-section (4) of section 104 :-

If there is a dispute regarding the entries of the land records the Land Reforms Officer, in his capacity as an Assistant Collector of the First Grade, shall decide the dispute under sub-section (4) of section 104 in accordance with the relevant provisions of the Punjab Land Revenue Act, 1887, or the Himachal Pradesh Land Revenue Act, 1954, as the case may be. The disputes of such cases will be determined on a summary inquiry on the files. (17 of 1887 and 6 of 1954).

Where a tenancy is in a part of a field number, tatima shajras of that part will be prepared.

30. Manner of determination of the amount :-

Immediately after the attestation of the mutation in favour of the tenants the Patwari of the circle shall prepare a statement, in Form LR-VIII showing the non-occupancy tenants who have acquired proprietary rights as a result of the mutation under rule 28 estate-wise and forwarded the same to the Land Reforms Officer concerned. On receipt of the statement, the Land Reforms Officer shall issue 15 days notice in Form LR-IX to the land-owners and the tenants concerned to be present before him on the date and place

mentioned in the notice. The Land Reforms Officer shall hear the parties on the fixed date. In case there are objections from any side, the Land Reforms Officer shall after a summary inquiry, pass order regarding the determination of the amount, apportionment of the same among the interested land-owners.

31. Maintenance of register of the amount :-

As soon as the Land Reforms Officer gives his decision regarding the determination of the amount under rule 30, entry fo that effect shall be made in a Register to be maintained in Form LR-IV in his office tehsil-wise. The entries of recoveries of the amount in lump sum or instalments, as the case may be, from the tenants and payment thereof to the land-owners shall be made in this register at the proper time. This register will be checked and verified by the Land Reforms Officer every month.

32. Payment of amount :-

(1) The amount shall be deposited by the tenant with the Land Reforms Officer in lump sum or in such number of instalments as may be determined by the land Reforms Officer under sub-section (5) of section 104. The Land Reforms Officer will pay the same to the land-owner whose rights, title and interests are extinguished. In case there are more than one land-owner the amount shall be paid in accordance with their respective shares. In case of amount payable to the State Government, the Land Reforms Officer shall deposit the same into the Government Treasury or Sub-Treasury as the case may be, under relevant Head of Account.

(2) Where there is a dispute between the various claimants the amount determined by the land Reforms Officer and deposited by the tenants shall be kept in the deposit in the Treasury/Sub-Treasury pending adjudication of the case by the competent court or officer, as the case may be.

(3) The amount deposited by the tenant shall be paid to the land-owner by means of cash payments against receipts.

(4) In case the tenants fail to pay the instalments according to the time fixed by the Land Reforms Officer in his order, the land-owner shall make an application to the land Reforms Officer for recovery of the amount due as arrear of land revenue.

33. Declaration under clause (d) of sub-section (8) of section 104 :-

(1) The declaration required to be made under clause (d) of sub-section (8) of section 104 shall be furnished in Form LR-X by the father of the member of the Armed Forces to the Collector concerned within 3 months from coming into force of these rules. The declaration shall be supported by an affidavit and a copy of the jamabandi pertaining to the land given in the declaration.

(2) The Collector to whom the declaration in Form LR-X is furnished under sub-rule (1) shall issue a receipt of the Form in Form LR-XI to the person finishing the declaration as soon as the declaration is received by him. Thereafter the Collector shall send a copy of the declaration to the Tehsildar who will verify the declaration in the presence of the parties and will direct the Patwari concerned to make entry in the revenue records in the light of the particulars given in the declarations, during the harvest inspection next following the declaration.

34. Procedure :-

The procedure of Land Reforms Officer under this part and Part V of these rules shall be, as far as possible, the procedure prescribed in Part II of these rules for the proceedings before the Revenue Officers.

35. Manner of service of notices :-

Notices under Chapter X of the Act shall be served in the manner prescribed in section 71 of the Act for the Mode of service of summons.

36. Form and manner of appeals :-

(1) An appeal under section 114 of the Act shall be preferred either personally or through a legal practitioner or recognised agent and the grounds of appeal or revision petition shall be accompanied by a certified copy of the order appealed against, or sought to be revised, as the case may be.

(2) An appeal or revision petition, as the case may be, shall be made on -

- (a) One rupee court fee stamp paper, when made to the Collector;
- (b) two rupees court fee stamp paper, when made to the Commissioner;
- (c) four rupees court fee stamp paper; when made to the Financial

Commissioner.

37. Application to be free of stamp duty :-

All applications under Chapter X of the Act shall be on petition paper and no stamp duty except as expressly provided in rule 36 shall be chargeable.

PART 6 CONTROL ON TRANSFER OF LAND

38. Affidavit by a person for acquisition of land :-

(1) Where transfer of land by way of sale, gift, exchange, lease or mortgage with possession, of which registration is not compulsory under the Registration Act, 1908 (16 of 1908) in favour of a person, who is not an agriculturist as defined in the Act or comes within the exemptions given in clauses (a) to (g) of sub-section (2) of section 118, such a person intending to secure a transfer of land in his favour shall swear an affidavit before the Revenue Officer, attesting the mutation, to the effect that he is eligible to secure transfer of land in his favour being an agriculturist. The Revenue Officer shall satisfy himself about the contents of an affidavit by the aforementioned person and shall attest a mutation only if that person is found to be an eligible person.

(2) Where a transfer of land by way of sale, gift, exchange, lease or mortgage with possession requiring compulsory registration under the Registration Act, in favour of a person who is not an agriculturist as defined in the Act, such a person intending to acquire land by way of sale, gift, exchange, lease or mortgage with possession, shall file an affidavit along with the registration deed before the Sub-Registrar or Registrar, as the case may be, to the effect that such a person is eligible to secure the transfer of land in his favour. The Registrar or the Sub-Registrar, as the case may be, shall satisfy himself by such an inquiry as he deems fit that such a person is eligible to get the land under the aforesaid sub-section and only then register the document presented to him for registration, otherwise the registration of deed shall be refused. (16 of 1908.)

38A. Purpose for which land is transferable under section 118(2)(h) :-

(1) In case a non-agriculturist intends to acquire land in his name by way of sale, gift, exchange, lease or mortgage with possession,

he shall apply in Form LR-XIV to the Collector in whose jurisdiction the land is situated, duly supported with copies of jamabandis and the tatima shajra of the land which he intends to acquire.

The Collector shall verify the claim of the applicant and thereafter submit the application with his remarks to the State Government for permission under clause (h) of sub-section (2) of section 118, through the Divisional Commissioner who shall also record his opinion about the transfer of land in favour of the applicant.

(2) The State Government, on receipt of the recommendations of the Divisional Commissioner shall consider the same and may grant or refuse the permission.

(3) The permission under sub-rule 2 of this Rule shall be for any one or more of the following purposes in the following scales:-

(a) for agriculture or horticulture purpose or for both purposes.- An area not exceeding 4 acres,

(b) for building a residential house.- 500 square meters,

(c) for construction of a shop- 300 square meters.

(d) for industrial unit -such area as may be certified by the Deptt. of Industries of the State Government.

(e) for charitable religious or public utility service- Such area as certified by the Collector of the District.

(f) For construction of a Hotel, Restaurant, Cafeteria or any such other premises. Such area as may be certified by the Department of Tourism of the State Government.

Provided that the permission granted under this Rule shall be valid for a period of 180 days, to be counted from the date of issue of the orders of the State Government granting such permission.

39. Transfer of land in favour of State Government under section 119 :-

(1) Where an agriculturist intends to transfer his land in favour of the State Government, he shall give a notice of his intention to transfer the land in Form LR-XII to the Collector. The decision of the State Government under sub-section (2) of section 119 shall be conveyed to the notice server in Form LR-XIII.

(2) The price of the land as determined by the Collector and confirmed by the State Government shall be paid to the transfer in cash after withdrawal of the money from the Government Treasury or the Sub-Treasury against the appropriate Head of Account.

(3) After payment of the price of the land under sub-rule (2), the Collector shall take over possession of the land on behalf of the

State Government and take steps to get the mutation of the land in favour of the State Government, attested.

40. Distribution of land purchased by State Government under rule 39 :-

The distribution of the land among the persons mentioned in section 121 shall be made by the Collector. The eligible person shall be required to make an application to the Collector who shall allot the land keeping in view the order of preference mentioned in the aforesaid section.

41. Price of the land for distribution under section 121 :-

The price of land for distribution among the persons entitled to get it under section 121 shall not be less than the price paid by the State Government under sub-rule (2) of rule 39. The total price will be recoverable in six monthly instalments not exceeding 20.

42. Repeal and Savings :-

(1) The corresponding rules framed under the enactments repealed under section 126 in their application to the respective areas of Himachal Pradesh shall stand repealed from the date of the commencement of these rules.

(2) The repeal of the rules referred to in sub-rule (1) shall not affect their previous operation or anything done thereunder.

(3) Notwithstanding the repeal of the rules under sub-rule (1) all suits, applications or other proceedings pending disposal under the Acts mentioned in section 126 shall be disposed of in accordance with the provisions of the rules repealed under sub-rule (1) as if these rules had not been repealed.