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SIND ORDINANCE NO. XI OF 1980

THE SIND LAND REVENUE (AMENDMENT) ORDINANCE, 1980

[28th July, 1980]

An Ordinance to amend the Sind Land Revenue Act, 1967

Preamble.

WHEREAS it is expedient to amend the Sind Land Revenue Act, 1967, in the manner hereinafter appearing;

Now, therefore, in pursuance of the proclamation of the fifth day of July, 1977 and the laws (Continuance in Force) order, 1977, the Governor of Sind is pleased to make and promulgate the following Ordinance :-

Short title and commencement.

1. (1) This Ordinance may be called the Sind Land Revenue (Amendment) Ordinance, 1980.

(2) It shall come into force at once.

Amendment of the heading of Chapter VI of West Pakistan Act XVII of 1967.

2. In the Sind Land Revenue Act, 1967, hereinafter called as the said Act, for the existing heading, and sub-heading below Chapter –VI, the heading "RECORD OF RIGHTS" shall be substituted.

Amendment of Section 39 of West Pakistan Act XVII of 1967.

3. In the said Act, in section 39, in sub-section (2), clause (b) shall be omitted.

Omission of section 41 of West Pakistan Act XVII of 1967.

4. In the said Act, section 41 shall be omitted.

Substitution of section 42 of West Pakistan Act XVII of 1967.

5. In the said Act, for section 42, the following shall be substituted:-

"42. (1) The Board of Revenue may, for exclusively doing the work connected with the maintenance of the record of rights and register of mutation of such rights, create, a cell in the office of Mukhtairkar, consisting of such officials as may be determined by it.

(2) The record of rights and the registration of mutations shall be in three sets, one each with the cell, the office of the union council or the council concerned, constituted under the Sind Local Government Ordinance, 1979 and the tapedar.

(3) Where a person has acquired any right or interest in a holding otherwise than by easement or charge not amounting to mortgage within the meaning of section 100 of the transfer of property Act, 1882, he shall, orally or in writing, inform the Mukhtiarkar or such other officer as may be appointed by the Board of Revenue, hereinafter called as authorized officer of such acquisition within three months thereof:

Provided that where the person acquiring the right is a minor or is otherwise disabled to give such information, his guardian or other person having charge of his property shall give the information:

Provided further that it shall not be necessary to give the information if the right or interest has been acquired by a registered document in which case it shall be the duty of the Sub-Registrar concern to inform the Mukhtiarkar or the authority officer, within three months of the registration of the document.

Explanation.__ A person in whose favour a mortgage is discharged or extinguished, or lease determined, acquires a right within the meaning of this sub-section.

(4) Where the information under sub-section (3) has been made orally, the Mukhtiarkar or the authorized officer shall reduce it to writing and obtain the signature or thumb impression of the person making the information.

(5) The Muhktiarkar or the authorized officer shall certify that the information required by sub-section (3) has been made and shall furnish such certificate to the person making it.

(6) The Mukhtiarkar or the authorized officer shall forward the information received by him under sub-section (3) to the incharge of the cell, if any, in case, the Mukhtiarkar or the authorized officer is not himself the incharge, and the incharge shall, on receipt of such information or where he is otherwise satisfied that any acquisition of any right or interest in any holding has taken place, enter such acquisition in the register of mutation.

(7) The incharge of the cell or the Mukhtiarkar where there is no cell after marking entry under sub-section (6) shall—

(a) affix a copy of the entry on the Notice Board of the Taluka Office;

(b) forward a copy of the entry to the tapedar concerned for affixing it at a conspicuous place in Tapedar's Dero;

(c) intimate, by notice in writing to all such persons who appear or are believed to be interested in the mutation.

(8) Any person aggrieved by the entry make under sub-section (6) may file objections against such entry with the incharge of the cell or with the Mukhtiarkar where there is no cell within fifteen days of the service of the notice under subsection (7).

(9) The objections, if any, received under sub-section (8) shall be entered in a separate register, hereinafter to be called the register of disputed cases.

(10) The objections entered in the register of disputed cases shall be disposed by the Mukhtirkar or such other officer authorized by the Board of Revenue in this behalf in open katcheri to be held in the concerned tapa and all parties interested in the objections shall be given notice of not less than a week regarding the date and place of the katcheri and shall be given reasonable opportunity of being heard in the said katcheri and the orders made with regard to disposal of the objections shall be entered in the register of mutation.

(11) The entires made in the register of mutation shall, after they have been certified by the Mukhtiarkar, be transferred to the record of rights in such manner as may be laid down by the Board of Revenue.

(12) The incharge of the cell or the Mukhtiarkar where there is no cell, shall after the expiry of the period for filing objections, if no objections are filed, or within ten days of the order under sub-section (10) make the necessary corrections in the copy of the record of rights in his custody and direct in writing the supervising tapedar to have the similar corrections made in the copies of the record of rights in the custody of the council concerned and the tapedar within fifteen days of the receipt of the directions.

(13) The corrections under sub-rule (12) shall be attested___

(i) by the Mukhtiarkar if the correction is made by the incharge of the cell;

(ii) by a Revenue Officer not below the rank of Assistant Mukhtiarkar in other cases.

6. In the said Act, section 43 shall be omitted.

Omission of section 43 of west Pakistan Act XVII of 1967.

7. In the said Act, in section 45—

Amendment of section 45 of west Pakistan Act XVII of 1967.

(i) The words, commas, brackets, letter and figures "or in a periodical record, except entries made in periodical records by patwari under clause (a) of section 43 with respect to undisputed acquisitions of interest referred to in that section," shall be omitted;

(ii) In clause (b), the semi-colons and the ward "; and " shall be replaced by a full stop; and

(iii) Clause (c) shall be omitted.

Substitution of section 52 of West Pakistan Act XVII of 1967.

8. In the said Act, for section 52, the following shall be substitute:-

"52. An entry in a record of rights shall be presumed to be true until the contrary is proved or a new entry is law-fully substituted therefor.".

Amendment of section 53 of West Pakistan Act XVII of 1967.

9. In the said Act, in section 53, the words or in a periodical record" shall be omitted.

Amendment of section 54 of West Pakistan Act XVII of 1967.

10. In the said Act, in section 54, the words "and a periodical record" shall be omitted.

Amendment of the heading of Chapter XIII of West Pakistan Act XVII of 1967.

11. In he said Act, for the heading below Chapter XIII, the heading "APPEAL AND REVISION " shall be substituted.

Amendment of section 161 of West Pakistan Act XVII of 1967.

12. In the said Act, in section 161—

(a) In sub-section (1)—

(i) Clause (a), (b) and (c) shall be renumbered as clauses (b), (c) and (d):-

(ii) before clause (b) so re-numbered, the following shall be inserted as clause (a);

"(a) to the assistant Collector of the first grade when the order is made by the Assistant Collector of the second grade; and

(iii) in clause (b), so re-numbered, for the comma and the words", of either grade" the words of the first grade shall be substituted;";

(b) the explanation below sub-section (1) shall be omitted; and

(c) after subsection (2), the following shall be inserted :-

(3) No Revenue Officer other than the Board of Revenue shall have power to remand any case in appeal to a lower authority.".

13. In the said Act, section 163 shall be omitted.

Omission of section 163 of West Pakistan Act XVII of 1967.

14. In the said Act, in section 164__

Amendment of section 164 of West Pakistan Act XVII of 1967.

(i) in sub-sections (1) and (2), for the word ninety" , the word "thirty" shall be substituted;

(ii) in the proviso the fullstop at the end shall be re-placed by a colon and thereafter the following provisos shall be added:-

Provided further that any order passed in revision under this section shall not be called in question on an application of the party affected by such order;

Provided also that no Revenue Officer other than the Board of Revenue shall have power to remand any case to a lower authority.".

15. In the said Act, in section 167, for the words and comma "for an appeal form, or an application for the review or" the words and commas "for, or condonation in filing of, an appeal or an application "for shall be substituted.

Amendment of section 167 of West Pakistan of Act XVII of 1967.