

The Punjab Tenancy Act, 1887

Act, 16 of 1887

CHAPTER I PRELIMINARY

1. short title, extent and Commencement.- (1) This Act may be called the Punjab Tenancy Act, 1887.
- (2) It extends to the whole of the territories ¹ [-]² [-] administer by the ³ [4[state] Government of]5[Punjab] 6[---] and
- (3) It shall come into force on such day as the 4[state] Government with the previous sanction of the 7[Central Government], may by notification appoint in this behalf.

SECTION 2-4

2. Power to make rules in anticipation of commencement.- (Repealed)⁸
3. Repeal.- (Repealed)⁹.
4. Definitions.- In this Act, unless there is something repugnant in the subject or context,-
 - (1) "Land" means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purpose or for purposes sub-servient to agriculture, or for pasture, and includes the sites of buildings and other structures on such land

¹ The words "including the pargana of Spiti" omitted by the Government of India (Adaptation of Indian Laws) Order, 1973

² The words "for the time being" were omitted by the Government of India (Adaptation of Indian) Order, 1937

³ Subs. For the word "Lieutnant Governor" by the Government of India (Adaptation of Indian Laws) Order, 1937, Section 4(1),

⁴ Sub. For the word "Provincial" by the Adaptation of Laws Order, 1950

⁵ Subs. For "East Punjab" (which had been subs, for "Punjab" by the Indian Independence (Adaptation of Central Acts and Ordinance) Order 1948) by the Adaptation of Laws Order, 1950.

⁶ The word "except the Hazara District" omitted by the Indian (Adaptation of Existing Indian Laws) Order, 1947

⁷ Subs. For the words "Governor-General in council by the Government of India (Adaptation of Indian Laws) Order, 1937.

⁸ Repealed by the Repealing and Amendment Act, 1891 (XII of 1891). Section 2(1).

⁹ Repealed by the Repealing and Amendment Act, 1891 (XII of 1891).

(2) "pay" with its grammatical variations and cognate expressions, includes, when used with reference to rent, "deliver," and "render," with their grammatical, variations and cognate expressions" .:

(3) "rent" means whatever is payable to a landlord in money, kind or service by a tenant on account of the use or occupation of land held by him:

(4) "arrear of rent" means rent which remains unpaid from the date on which it becomes payable :

(5). "tenant" means a person who holds land under another person, and is or but for a special contract would be, liable to pay rent for that land to that other person; but does not include -

- (a) an inferior landowner, or
- (b) a mortgagee of the rights of a landowner, or

(c), a person, to Whom a holding has been transferred, or an estate or holding has been let in farm under the Punjab Land Revenue Act 1887 (XVII of 1887), for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear or

(d) a person who takes from the [Government] a lease of unoccupied land for the purpose of subletting it:

(6) "landlord" means a person under whom a tenant holds land and to whom the tenant is. Or but for a special contract would be liable to pay rent for that land:

(7) "tenant" and "landlord" include the predecessors and successors in interest of a tenant and landlord respectively:

(8) "tenancy" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions:

(9) "estate" "landlord" and "holding" have the meanings, respectively, assigned to those words in the Punjab Land Revenue Act, 1887;

(10) "land revenue" means land revenue assessed under any law for the time being in force or assessable under the Punjab Land Revenue Act, 1887 (XVII of 1887), and includes--

- (a) any rate imposed in respect of the increased value of land due to irrigation, and
- (b) any Sum payable in respect of land, by way of quit-rent or of commutation of service, to the ¹ [Government] or to a person to whom the ²[Government] has assigned the right to receive the payment:

(11) "rates and cesses" means 'rates and cesses which are primarily payable by landowners, and includes,--

- (a) [-----]³

¹Subs. for the word "Crown" by the Adaptation of Laws Order, 1950.

²Subs. for the word "Crown" by the 'Adaptation of Laws Order, 1950.

³Repealed by the Repealing and 'Amendment Act, 1891 (XI of. 1891).

S.4

The Punjab Tenancy Act, 1887

(b) the local rate, if any payable under the Punjab District Boards Act, 1883 (XX of 1883), and any fee leviable under Section 33 of that Act, from landowners for the use of, or benefits derived from, such works as are referred to in Section) 20, clauses(i)and (j) of 'that Act ;

(c) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873 (VIII or 1873);

(d) The zaidari and village officer's cesses; and

(e) sums payable on account of village expenses;

(12) "village-cess" includes any cess, contribution or due which is customarily leviable within an estate and if neither a payment for the use of private property or for personal service, nor imposed by or under any, enactment for the time being in force.

(13) "village officer" means a chief headman, headman or patwari.

(14) "Revenue Officer" or "Revenue Court" in any provisions of this Act means a Revenue Officer or Revenue Court having authority under this Act to discharge the function of a Revenue Officer or Revenue Court as the case may be under that provisions:

(15) "jagirdar" includes any person, other than a village servant, to whom the land revenue of any land, has been assigned in whole or in part by the ¹[Government] or by an officer of the ¹[Government]:

(16) "legal practitioner" means any legal practitioner within the meaning of the legal Practitioner Act, 1879' (XVIII of 1879) except a mukhtar :

(17) "agriculture year" means the year commencing on the sixteenth day of June, or on such other-date as the ³ [State] Government may by notification appoint for any local area:

(18) "notification" means a notification published by authority of the ³[State] Government in the Official Gazette: and

(19) "improvement" means, with reference to a tenancy any work which is suitable to the tenancy and consistent with the conditions on which it is held by which the value of the tenancy has been and continues to be increased, and which if not executed on the tenancy, is either executed directly. for its benefit, or is, after execution made directly beneficial to it .

Explanation 1.- It includes, among other things-

(a) the construction of wells and Other works for the storage or supply of water for agricultural purposes;

(b) the construction of works for, drainage and for protection against floods ;

(c) the planting of. trees, the reclaiming, enclosing, levelling and terracing of land for agricultural purposes and other works of a like nature;

(d) the erection of buildings reburied for the more convenient or profitable cultivation of a tenancy; and

³Subs. For the word "Provincial" by the Adaptation of Laws Order, 1950 .

The Punjab Tenancy Act. 1887

S.4 &5

(e) the renewal of construction of any of the foregoing works, or such alternations therein, or additions thereto, as are not of the nature of mere repairs and as durably increase their value;

But it does not include such clearances, embankments, levellings enclosures, temporary well and water channels as are made by tenants in the ordinary course of cultivation and without any special expenditure or any other benefit accruing to land from ordinary operations of husbandry.

Expladation II.—A work which benefits several tenancies may be deemed to be with respect to each of them, an improvement.

Explanation III.—A work executed by a tenant is not improvement if it substantially diminishes the value of any other part of his landlord's property.

(20) ¹[-]

COMMENTARY

-S. 4-Landlord and Tenant-Relationship of –can come into existence as a result of agreement-Agreement may be express or implied-Implied relationship may be inferred from the conduct of the parties-payment of rent is one of the factors

1990 (1) All India Land Laws Reporter 61

-Ss. 4(5) and (6)-Landlord and tenant-Relationship of –Plea that relationship of landlord and tenant came to an end as ejection order passed for order passed for non payment of rent for Rabi 1983-such order and plea would not govern the relationship earlier to Rabi 1983

1990 (1) All India Land Laws Reporter 391

-S. 4(5) – Appellant claims possession as a tenant-The question of fact has been decided against the appellant by the lower appellate Court And mere mention of word “Ghair Marusi” does not clothe him with that status

1995 (2) All India Land Laws Reporter 10

CHAPTER II

Right of Occupancy

SECTION 5

Tenants having right of occupancy.- (1) A tenant-

(a) who at the commencement of this Act has, for more than two generations in the male line of descent through a grandfather or grand uncle and for a period of not less than twenty years, been occupying land paying on rent therefore beyond the amount of the land revenue thereof and the rates and cesses for the time being chargeable thereon, or

(b) who having owned land, and having ceased to be landowner thereof otherwise than by forfeiture to the Government or than by any voluntary act, has, since he ceased to be landowner continuously occupied the land, or

¹Omitted by the Indian (Adaptation of Existing Indian Laws) Order 1947, Section 4(1).

S.5-7

The Punjab Tenancy Act, 1887

(c) who, in a village or estate in, which he is Settled along with or was settled by, the founder there of as a cultivator therein, occupied land on the twenty-first day of October 1868, and has continuously occupied the land since that date, or

(d) Who being jagirdar of the estate or any part of the estate in which the land occupied by him is situate, has continuously occupied the land for not less than twenty years, or, having been such jagirdar, occupied the land while he was jagirdar and has continuously occupied it for not less than twenty years.

has a right of occupancy in the land so occupied, unless, in the case of a tenant belonging to the class specified in clause (c), the landlord proves that the tenant was settled on land previously cleared and brought under cultivation by, or at the expense of, the founder,

(2) if a tenant proves that he has continuously occupied land for thirty years and paid no rent therefor beyond the amount of the land revenue thereof and the rates and cesses for the time being chargeable thereon it may be presumed that he has fulfilled the conditions of clause (a) of subsection (1).

(3) The words in that clause denoting natural relationship denoted also relationship by adoption, including therein the customary appointment of an heir and relationship, by the usage of a religious community.

COMMENTARY

-S. 5(2)-Occupancy, tenant-Tenant-Tenant in continuous possession of a piece of land for more than 30 years and paying no rent beyond the amount of land revenue-Presumption is that such a tenant fulfills the conditions of clause (a) for Section 5(I)-Entitled to claim apportionment of compensation under the Land Acquisition Act

1990(1) All India Land Law Reporter 53

SECTION 6

6. Right of Occupancy of other tenants recorded as having the right before passing of Punjab Tenancy Act, 1868.-A tenant recorded in a record-of-rights sanctioned by the [State] Government before the twenty-first day of October, 1868, as a tenant having right of occupancy in land which he has continuously occupied from the time of the preparation of that record, shall be deemed to have a right of occupancy in that land unless the contrary has been established by a decree of a competent Court in a suit instituted before the passing of this Act.

SECTIONS 7—8

7. Right of occupancy in land taken in exchange.—If the tenant has voluntarily exchanged the land, or any portion of the land, formerly, occupied by him for other land belonging to the same landlord, the land taken in exchange shall be held to be subject to the same right of occupancy as that to which the land given in exchange would have been subject if the exchange had not taken place.

¹Subs. for the word “Provincial” by the Adaptation of Laws Order, 1950.

8. *Establishment of right of occupancy* on grounds other than those expressly stated in Act.-Nothing in the foregoing sections of this Chapter shall preclude any person from establishing a right of occupancy on any ground other than the grounds specified in those sections.

COMMENTARY_

S. 8-F. C. has admitted the claim of tenants occupancy, tenant on the basis of long occupation, no increase of rent when agricultural produce prices have escalated and improvements were made without approval of the land-owner, not objected to by him-Land-owner is in appeal-Held -(i.) Mere length of ..Possession does not entitled a tenant to become an occupancy tenant-Such an intention is to be reflected at the inception of tenancy-- (ii) annual rent was increased on more than one occasions-(iii) documents submitted for power connection for tubewell have not been produced-Order passed by Revenue Authorities that respondent had acquired occupancy tenant rights cannot legally be sustained – Set aside—order passed by the Assistant Collector 1st Grade dismissing suit of the tenant is restored

1995(2) All India Land Laws Reporter 146

SECTIONS 9---10

9. *Right of occupancy not to be: acquired by mere lapse of time* .No tenant shall acquire a right of occupancy by mere lapse of time.

10. *Right of Occupancy no to be acquired by joint owner in land held in joint ownership.--* In the absence of custom to the contrary no one of several joint owners of land shall acquired a right, of occupancy under this Chapter in land jointly owned by them.

SECTION 11

11. *Continuance of existing. occupancy rights.--*Notwithstanding anything in the foregoing sections of this Chapter, a tenant who immediately before the commencement of this, Act has a right of occupancy in any land under an enactment specified in any line of the first column of the following table shall, when this Act comes into force, be held to have, for all the purposes of this Act, a right of occupancy in that land under the enactment specified in the same line of the second column of the table:-

PUNJAB TENANCY ACT, 1868 (XXVIII of 1868)		This Act		
First Column		Second Column		
Section	Clause	Section	Sub-section	Clause
1	2	3	4	5
5	(1)	5	(1)	(a)
5	(2)	5	(1)	(b)
5	(3)	5	(1)	(c)
5	(4)	5	(1)	(d)
6	6
8	8

CHAPTER III**Rent***Rents generally***SECTION 12**

12. *Respective rights of landlord and tenant to produce.*--(1) The rent for the time being payable in respect of a tenancy shall be the first charge on the produce thereof.

(2) A tenant shall be entitled to tend, cut and harvest the produce of his tenancy in due course of husbandry without any interference on the part of his landlord.

(3) Except where rent is taken by division of the produce the tenant shall be entitled to the exclusive possession of the produce.

(4) Where rent is taken by division of the produce-

(a) the tenant shall be entitled to the exclusive possession of the whole produce until it is divided,

(b) the landlord shall be, entitled to be present at, and take part in the division of the produce, and

(c) When the produce has been divided, the landlord shall be entitled to the possession of his share thereof.

SECTION 13

13. *Commutation and alteration of rent.*--Where rent is taken by any of the following methods, namely:--

(a) by division or appraisalment of the produce,

(b) by rates fixed, with reference to the nature of the crops grown.

(c) by a rate on a recognized measure of area,

(d) by a rent in gross on the tenancy, or

(e) partly by one of the methods specified in clauses (a), (b) and (c) of this sub-section and partly by another or others of them.

One of those methods shall not be commuted in whole or in part into another without the consent of both landlord and tenant.

(2) In the absence of a contract or a decree or order of competent authority, to the contrary, a tenant whose, rent is taken by any of the methods specified in clauses (a), (b) and (c) of subsection (1), or by the methods specified in clause (d) of that sub-section, shall not be liable to pay for a tenancy rent at any higher rate, or of a higher amount, as the case may be, than the rate or amount payable in respect of the tenancy for the preceding agricultural year.

SECTION 14

14. Payments for land occupied without *consent of landlord.*---Any person in possession of land occupied without the consent of the landlord shall be liable to pay for the use of occupation of that land at the rate of rent payable in the preceding' agricultural year, or if rent was not payable.

in that year, at such rate as the Court may determine to be fair and equitable.

COMMENTARY

S . 14-Plaintiff was in cultivating possession as co-sharer-Plaintiff impugns the orders of D.D.P.O. imposing penalty of Rs. 1,78,000/- for use and occupation for period for which no rent had been paid as well as passed order of eviction—Trial Court dismissed the suit as order of DDPO.(as Collector)was binding on the plaintiff—Lower appellate Court accepted the appeal slashed the amount of penalty equal to the loss accrued to the Gram Panchayats and it come to Rs. 4,500/- per year for two years—Held—Un-authorized occupant is liable to pay at the rate of rent payable and in case no rent is payable, as decided by the Court-Tenancy Act comes to rescue-Calculation of lease money done by the lower appellate Court seems to be proper—No illegality or infirmity is discernible—Punjab village Common Lands (Regulation) Rules. 1964—Rule 29-A

1995(2) All India Land Laws Reporter 258

SECTION 15

15. *Collection of rents of undivided property*—When two or more persons are landlords of a tenant in respect of the same tenancy, the tenant shall not be bound to pay part of the rent of his tenancy to one of those persons and part ,to another .

SECTION 16

Produce-rents

16. Presumption with respect to produce removed before division or appraisalment—where rent is taken by division or appraisalment of the produce, if the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due division or appraisalment thereof, or deals therewith in a manner contrary to established usage, the produce may be deemed to have been as the fullest crop of the Same description on similar land in the neighbourhood for that harvest.-

SECTION 17

17. *Appointment of ,referee for division or appraisalment.*--If either the landlord or the tenant neglects to attend, either personally, or by agent, at the proper time for making the division or appraisalment of the produce or if there is a dispute about the division or appraisalment, a Revenue officer may, on the application of either party, appoint such person as he thinks fit to be a referee to divide or appraise the produce.

SECTION 18

18. Appointment of assessors and procedure of referee—(1) When a Revenue –Officer appoints referee under the last foregoing section, he may, in his discretion give him instructions with respect to the association with himself or any other persons as assessors, the number, qualifications and selection of those assessors, and the followed in, making the division or appraisalment.

(2) The referee so appointed shall make the division or appraisalment in accordance with any instructions which he may have received from the Revenue-officer under the last foregoing sub-section.

Ss 19--22

The Punjab Tenancy Act, 1887

(3) Before making the divisions or appraisement the referee shall give notice to the landlord and the tenant of the time and place at which the division or appraisement will be made, but, if either the landlord or the tenant fails to attend either personally or by agent, the referee may proceed *ex parte*.

(4) For the purpose of making the division or appraisement, the referee, with his assessors, if any, may enter upon any land on which or into any building in which the produce is.

SECTION 19

19. *Procedure after division or appraisement.*—(1) The result of the division or appraisement shall be recorded and signed by the referee, and the record shall be submitted to the Revenue-officer.

(2) The Revenue-officer shall consider the record, and, after such further inquiry, if any, as he may deem necessary, shall make an order either confirming or varying the division or appraisement.

(3) The Revenue-officer shall also make such order as to the costs of the reference as he thinks fit.

(4) The cost may include the remuneration of the referee and of the assessors, if any, and may be levied from the applicant before the appointment of the referee subject to adjustment as the close of the proceedings.

SECTION 20

20. *Enhancement of produce rents of occupancy tenants.*—Where, the rent of tenant having a right of occupancy in any land is a share of the produce, or of the appraised value thereof, with or without an addition in money, or is paid according to rates fixed with reference to the nature of the crops grown, or is a rent in gross payable in kind, the tenant shall be entitled to occupy the land in that rent.

Provided that, when, the land or any part thereof previous not irrigated or flooded becomes irrigated or flooded, the rent payable in respect of the land or part may, subject to the provisions of this Act, be enhanced to the share of rates, or with reference to the rent in gross, as the case may be, paid by tenants having a similar right of Occupancy, for irrigated or flooded land of a similar description and with similar advantages.

SECTION 21

Cash rents paid by Tenants having Right of Occupancy

22. *Enhancement of cash rents of occupancy tenants* —(1) Where a tenant having a right of occupancy pays his rent entirely by a cash rate on a recognized measure of area or by a cash rent in gross on his tenancy, the rent may be enhanced on the ground that after deduction there from of the land-revenue of, and the rates and cesses chargeable on the tenancy, it is—

(a) If the tenant belongs to the class specified in clause (a) of sub section (1) of section 5, less than two annas per rupee of the amount of the land-revenue;

(b) if he belongs to any of the classes specified in clauses (b), (c), and (d) of that sub-section less than six annas per rupee of the amount of the land-revenue;

(c) if he belongs to the class specified in section 6, or if his right of occupancy is established under section 8 and his rent is not regulated by contract less than twelve annas per rupee of the amount of the land revenue.

(2) In a case to which sub-section (1) applies. the rent may be enhanced to an amount not exceeding two, six. or twelve annas per rupee of the amount of the land-revenue as the case may be, in addition to the amount of the land-revenue of the tenancy and t he rates and cesses chargeable thereon.

(3) ¹[-]

SECTION 23

23. *Reduction of rents referred to in the last foregoing section.*-The rent payable by a tenant to whom the last foregoing section applies may be reduced on the ground that the productive powers of his tenancy have been decreased by a cause beyond his control.

SECTION 24

General Provisions relating to suits for Enhancement Or reduction of Rent

24. *Enhancement and reduction of rent by suits.*-(I) A Revenue'Court, on the suits of either landlord or tenant, may, subject to the provisions of this and other sections of this Act, enhance or reduce the rent of any tenant having a right of occupancy.

(2) Where a decree for the enhancement of the rent of such a, tenant has been passed under the Punjab Tenancy Act, 1868, (XXXVIII of 1868), a suit for a further enhancement of his rent shall not lie till the expiration of five years from the date of the decree, unless in the meantime the local area in which the land comprised in the decree is situate has been generally reassessed and the revenue payable in respect of that land has been increased.

(3) Subject to the provision of sub-section (2), a suit instituted for the enhancement of the rent of a tenant having a right of occupancy shall not be entertained in either of the following cases, namely :-

(a) If within the ten years next preceding its institution his rent has been commuted under section 13 or enhanced under this section;

(b) if within that period a decree has been passed under this Act dismissing on the merits a suits for the enhancement of his rent.
unless of land or some part of the land comprised in his tenancy, not having irrigated, or flooded at the time of such commutation eahancement or decree, has become irrigated or flooded.

¹(4) [----]

¹Sub-clause (3) (added by Punjab Act XI of 1925) was omitted by the Indian (Adaptation of Existing Indian Laws), Order, 1947, S. 4(1).

²Sub-clause (4) added by Punjab Act, XI of 1925 was omitted by the Indian (Adaptation of Existing Indian Laws) Order, 1941, S. 4(i).

Ss. 25,- 27

The Punjab Tenancy Act, 1887

SECTION 25

25. *Direction as to extent of enhancement or reduction.*-In enhancing or reducing the rent of any land, under the foregoing provisions of this chapter, the Court shall within the limits prescribed by those provisions, enhance or reduce the rent to such an amount as it considers fair and equitable, but shall not in any case fix the rent at a sum less the amount of the land-revenue of the land and the rates and cesses chargeable thereon.

SECTION 26

26. *Time for enhancement or reduction to take effect.*-(1) Unless the Court decreeing an enhancement of rent otherwise directs the enhancement shall take effect from the commencement of agricultural year next following the date of the decree.

(2) A Court decreeing a reduction of rent shall specify in the decree the date on and from which the reduction is to take effect.

SECTION 27

Adjustment of rents .expressed in terms of the land revenue

27. *Adjustment of rents expressed in terms of the land revenue.*-(1) Where the rent of a tenancy is the whole or a share of the land revenue thereof, with or without an addition in money, kind or service, and the land-revenue of the holding in which the tenancy is situate is altered a Revenue Officer having authority under section 56 of the Punjab Land Revenue Act, 1887, (XXXII of 1887), to determine the land-revenue payable in respect of the several holdings comprised in the estate in which the tenancy is situate shall determine also the amount of the land-revenue of the tenancy, or the proportionate share thereof payable by the tenant as rent.

(2) Where an addition referred to in sub-section (1) is a percentage fixed with reference to the land revenue of the tenancy, or the whole or a share of the rates and cesses chargeable thereon, or both, the Revenue_ Officer shall in like manner from time to time alter the amount of the addition in proportion to any alteration of such land-revenue or rates and cesses.

(3) The sum or sums determined under the foregoing subsections, together with any additions previously payable other than the additions referred to in sub-section (2), shall be the rent payable in respect of the tenancy until there is again an alteration of the land-revenue thereof or of the rates and cesses chargeable thereon or until the rent is enhanced by a suit under this Act.

(4) An alteration of rent under this section shall not be deemed an enhancement or reduction or rent within the meaning of this Act.

¹[(5)-----]

²[27-A.----]

¹Sub-section (5) (added by Punjab Act XI of 1925) was omitted by the Indian Adaptation of Existing Laws) Order 1947, section 4(i).

²Sec27-A together with the heading omitted by the Indian (Adoptation of Existing Indian Laws) Order, 1947, Section 4(i).

The Punjab Tenancy Act, 1887

Ss.28-30

SECTION 28

Alteration of rent On Alteration of Area

28. *Alteration of rent on alteration of area.--Every tenant shall--*

(a) be liable to pay additional rent for all land proved to be in excess of the area for which rent has been previously paid by him, unless it is proved that excess is due to the addition to his tenancy of land which having previously belonged to the tenancy, was lost by diluvion or otherwise without any reduction of the rent being made ; and

(b) be entitled to an abatement of rent in respect of any deficiency proved to exist in the area of his tenancy as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenancy by alluvion or otherwise and that an addition has not been made to the rent in respect of the addition to the area.

(2) In determining the area for which rent has been previously paid the Court shall have regard to the following among other matters namely :--

(a) the origin and conditions of the tenant's occupancy for instance whether the rent was a rent in gross for the entire tenancy ;

(b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord ;;

(c) the length of time during which there has been so dispute as to rent or area.

(3) In adding to or abating rent under this section, the Court shall add to or abate the rent to such an amount as it deems to be fair and equitable, and shall specify in its decree the date on and from which the addition or abatement is to take effect.

(4) An addition to or abatement of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

SECTION 29-36

Remission

29. *Remission of rent by Courts decreeing arrears.--*Notwithstanding anything in the foregoing sections of this Chapter, if it appears to a Court making a decree for an area of rent that the area of a tenancy has been so diminished by diluvion or otherwise, or that the produce thereof has been so diminished by drought, hail, deposit of sand or other like calamity, that the full amount of rent payable by the tenant cannot be equitably decreed, the Court may, with the previous sanction of the Collector, allow such remission from the rent payable by tenant as may appear to it to be just.

SECTION 30

30. *Remission and suspension of rent consequent on like treatment of*

Ss.30

The Punjab Tenancy Act, 1887

Land revenue-- ¹[(i) Whenever the payment of the whole or any part of the land revenue payable in respect of any land is remitted or suspended, a Revenue-officer may, if the rent be payable in cash or be rent payable in kind of which the amount is fixed by order remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion the whole of the rent payable in respect of the land as the land revenue of which payment has been remitted or suspended bears to the whole of land-revenue payable in respect of the land:

Provided that in the case of an occupancy-tenant, whose rent is of the nature hereinbefore in this sub-section described, the remission or suspension of the land-revenue payable in respect of the land shall, in the absence of a written order by a Revenue officer to the contrary carry with it a proportionate remission or suspension, as the case may be of his rent.

When the payment of the rent of any kind has been suspended under this clause it shall remain under suspension until the Collector orders the revenue of that land to be realized.]

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court.

(3) A suit shall not lie for the recovery of any rent of which the payment has been remitted, or during the period of suspension, of any rent of which the payment has been suspended.

(4) Where the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent.

²[(5) If the landlord collects from a tenant any rent of which the payment has been remitted, or is under suspension, the Revenue-officer may recover from the landlord the amount or value of the rent so collect, and may also recover by way of penalty a further sum not exceeding such amount or value, and may cause to be refunded to the tenant the amount or value of the rent so collected from him.]

(6) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, so far as they can be made applicable, to land of which the land-revenue has been released, compounded for or redeemed in any case in which, if the land-revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue officer, be remitted or suspended under the rules for the time being in force regulating the remission and suspension of land-revenue.

³[(7) Any sum of which the recovery is ordered under sub-section (5) on account of rent or penalty may be recovered by the Collector as if it were an arrear of land-revenue.]

¹ Substituted for the old sub-section by Punjab. Act 1 of 1906, Section 3.

² Subs. for the old sub-section by Pb. Act 1 of 1906, Section 4.

³ Added by Pb. Act 1 of 1960, Section 5.

•osits
The Punjab Tenancy Act, 1887
Deposits

Ss. 31-33

31. *Power to deposit rent in certain cases with Revenue officer.*--In either of the following cases, namely :-

(a) when a landlord refuses to receive, or grant a receipt for, any rent payable in money when tendered to him by a tenant.

(b) when a tenant is in doubt as to the person entitled to receive rent payable in money, the tenant may apply to a Revenue-officer for leave to deposit the rent in his office, and the Revenue-officer shall receive the deposit if after examining the applicant, he is satisfied that there is sufficient ground for the application and if the applicant pays the fee, if any, chargeable for the issue of the notice next hereinafter referred to.

32. *Effect of depositing rent.*-(1) When a deposit has been so received it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

(2) The Revenue-officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe has a claim or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled thereto or may, if he thinks fit, retain the deposit pending the decision of a competent Court as to the person so entitled.

(3) No suit or other proceeding shall be instituted against the ¹[Government], or against any officer of the [Government] in respect of anything done by a Revenue-officer under this section, but nothing in this sub-section shall prevent any person entitled to receive the amount of any, such deposit from recovering it from a person to whom it has been paid by a Revenue-officer.

Recovery of rent from attached Produce

33. *Recovery of rent from attached produce.*-(1) If an order is made by any Court for the attachment of the produce of a tenancy or of any part of a tenancy, the landlord may apply to the Revenue-officer by whom the attachment is to be or has been made to sell the produce and pay to him out of the proceeds, of the sale thereof the amount or value of--

(a) any rent which has fallen due to him in respect of the tenancy within the year immediately preceding the application and

(b) the rent which will be falling due after the harvesting of the produce and is chargeable against it.

(2) The Revenue officer shall give the person at whose instance the attachment was made an opportunity of showing cause why the application

of the landlord should not be granted, and, if he finds the landlord's claim to the whole or any part of the rent to be proved he shall cause the produce or such portion thereof as he may deem necessary, to be sold, and shall apply the proceeds of the sale in the first instance to satisfy the claim.

¹Subs. for the word "Crown" by the Adaptation of Laws Order 1950.

Ss. 34-36

The Punjab Tenancy Act, 1887

(3) The finding of the Revenue, officer under sub-section (2) shall have the force of a decree in suit between the landlord and the tenant.

Leases for Period exceeding term of Assessment of Land revenue

34. *Treatment of leaser for period exceeding or equal to term of assessment of land revenue.*-(1) Where a lease has been granted or an agreement has been entered into, by a landowner in respect of any land, assessed to land-revenue fixing for a period exceeding the term for which the land revenue has been assessed, the rent or other sum payable in respect of the land under the lease or agreement, and that term has expired, lease or agreement shall be voidable-

(a) at the option of the landowner if the land revenue of the land has been enhanced and the person to whom the lease as been granted or with whom the agreement has been entered into refuses to pay such rent or other sums as a Revenue Court, on the suit of the land-owner, determines to be fair and equitable ¹[-----] and

Where the relation of landlord and tenant exists between the grantor and grantee of the lease or between the persons who entered into the agreement--

(b) at the option of the tenant if the land-revenue of the land has been reduced and the landlord refuses to accept such rent has a Revenue Court, on the suit of the tenant, determines to be fair and equitable ¹[-----,]

(2) Any agreement relative to the occupation, rent, profits or produce of any land which has been entered into for the term of the currency of an assessment shall, unless a contrary intention clearly appears in the agreement is terminated by consent of parties or course of law, continue in force until a revised assessment takes effect.

CHAPTER IV

Relinquishment, Abandonment and Ejectment.

Relinquishment

35. *Relinquishment by tenant for a fixed term* -A tenant holding for a fixed term under a contract or a decree or order of competent authority may relinquish his tenancy without notice at the end of that term.

36. *Relinquishment by any other tenant.* --Any other tenant may relinquish his tenancy by giving verbally or in writing to his landlord or to his landlord's agent, on or before the fifteenth day of January in any year notice of his intention to relinquish the tenancy at the end of the agricultural year then current.

(2) The tenant may, instead of, or in addition to, giving the notice in-the manner mentioned in sub-section (1), apply to a Revenue-officer on or before the date aforesaid to cause the notice to be served on the landlord, and the Revenue-officer on receiving the cost of service from the tenant, , shall cause the notice to be served as Soon as may be.

¹The words "or a Revenue officer under the provisions of Section 27-A has determined to be proper" (inserted by section 7 of Punjab Act XI of 1925) omitted by the Indian (Adaptation of Exhisting India Laws) Order, 1947, Section 4(1),

The Punjab Tenancy Act, 1887

Ss. 37-40

(3) If the tenant does not give notice in the manner prescribed in this section, he shall be liable to pay the rent of his tenancy for any part of the ensuing agricultural year during which the tenancy is not let by the landlord to some other person or is not cultivated by the landlord himself.

SECTION 37

37 Relinquishment of part only of tenancy.—A tenant cannot, without the consent of his landlord, relinquish a part only of his tenancy.

SECTION 38

Abandonment

38 Abandonment of tenancy by occupancy tenant.—(1) If a tenant having a right of occupancy fails for more than one year without sufficient cause to cultivate his tenancy, either by himself or some other person, and to arrange for payment of the rent thereof as it falls due, the right of occupancy shall be extinguished from the end of that year.

¹(2) [--]

Ejectment

Liability of Ejectment

SECTION 39

39. *Grounds of ejectment of occupancy tenant* -(1) A tenant having a right of occupancy shall be liable to be ejected from his tenancy on any of the following grounds, namely :--

(a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it ;

(b) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate;

(c) when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied

(2) ²[---]

COMMENTARY

Ss. 39, 40 and 48--Subletting and non-payment of the rent to the land-owners established in the Court of Assistant Collector Grade I—Further held that relationship of landlord, tenant existed between the parties—Ejectment ordered—Upheld by the Collector in appeal—In appeal, Commissioner reversed the orders - Allowed the tenant to pay arrears of rent under S. 48 of the Act--F. C. reversed orders of the Commissioner and restored orders of the Collector observing that S. 48 applied to tenants falling under S. 39 (a) and (b) and S.40-Case of petitioners falls under neither-Benefit of S. 48 cannot be allowed

1992(2) All India Land Laws Reporter 591

¹ Sub-clause (2) of section 38 (inserted by Punjab Act XI of 1925), was omitted by the Indian (Adaptation of Existing Laws) Order, 1947, Section 4(i)

² Omitted by the Indian (Adaptation of Existing Law) Order, 1947, Section 4 (i).

Ss. 40-44

The Punjab Tenancy Act, 1887

SECTIONS 40-41

40. *Grounds of ejectment of tenant for a fixed term.*-- A tenant not having a right of occupancy but holding for a fixed term under a contract or a decree or order of competent authority, shall be liable to be ejected from his tenancy at the expiration of that term, and, on any of the following grounds, before the expiration thereof namely :--

(a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which, he held it ;

(b) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner, or to the extent customary in the locality in which the land is situate ;

(c) on any ground which would justify ejectment under the contract decree or order.

41 *Ejectment of tenant from year to year.*—A tenant who has not a right of occupancy, and does not hold for a fixed term under a contract or decree or order of competent authority, may be ejected at the end of any agricultural year.

SECTION 42

Procedure of Ejectment

42. *Restriction of Ejectment.*—A tenant shall not be ejected otherwise than in execution of a decree for ejectment, except in the following cases, namely.

(a) when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied ;

(b) when the tenant has not a right of occupancy and does not hold for a fixed term under a contract or a decree or order of competent authority

SECTION 43.

43 *Application to Revenue-officer for ejectment.*— In any such case as is mentioned in clause (a) or clause (b) of the last foregoing section the land-lord may apply to a Revenue-officer for the ejectment of the tenant in the case mentioned in the former clause or for the service on the tenant of a notice of ejectment in the case mentioned in the latter clause

SECTION 44

44 *Ejectment for failure to satisfy decree for arrear of rent.*—(1) On receiving the application in any such case as is mentioned in clause (a) of section 42, the Revenue-officer shall after such inquiry, with respect to the existence of the arrear as he deems necessary, cause a notice to be served on the tenant stating the date of the decree and the amount due there under , and informing him that if he does not pay that amount to the Revenue-officer within, fifteen days from receipt of the notice he will be ejected from the land.

(2) If the amount is not so paid the Revenue-officer shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant

unless good cause is shown to the contrary.

The Punjab Tenancy Act, 1887

SECTION 45

45. Ejectment of tenant from year to year by notice—(1) on receiving the application of the landlord in any sum case as is mentioned in clause (b) of Section 42, the Revenue officer shall, if the application is in order and not open to objection on the face of it cause a notice of ejectment to be served on the tenant.

(2) A notice under sub-section (1) shall not be served after the fifteenth day of November in any ¹[agricultural] year.

(3) The notice shall specify the name of the landlord on whose application it is issued and describe the land to which it relates, and shall inform the tenant that he must vacate the land before the first day of May next following, or that, if he intends to contest his liability to ejectment, he must institute a suit for that purpose in a Revenue Court within two months from the date of the service of the notice.

(4) The notice shall also inform the tenant that if he does not intend to contest his liability to be ejected and he has any claim for compensation ejectment, he should within two months from the date of the service of the notice prefer his claim to the Revenue-officer having authority under the next following sub-section to order his ejectment in the circumstances described in that sub-section.

(5) If within two months from the date of the service of the notice the tenant does not institute a suit to contest his liability to be ejected a Revenue-officer, on the application of the landlord shall, subject to the provision of this Act with respect to the payment of compensation order the ejectment of the tenant :

provided that the Revenue-officer shall not make the order until he is satisfied that the notice was duly served on the tenant.

(6) If within those two months tenant institutes a suit to contest his liability to be ejected and fails in the suit, the Court by which the suit is determined shall by its decree direct the ejectment of the tenant.

COMMENTARY

--Section 45 of Revenue Act talks of a right which an aggrieved person may agitate if he is in possession of the land-Applicants here were deprived of the possession by an order of the State as early as about 1902-And later confirmed by consolidation proceedings-Stood so for years as having been decided by the then Tehsildar and Nazim-This would then operate as judicature to the present application- The position is different-Those not in possession want the record of rights to be a mended, and such request cannot be entertained by the Revenue Court as per Section 158(2) (vi)-Decree or decision of a Revenue Court having no jurisdiction could not operate as res -judicata suit for declaration is to be filed under Specific Relief Act- Jurisdiction of Civil court is not barred by section 77(3) of Punjab Tenancy Act, Punjab Land Revenue Act, 1887 Section 45-A

1995(2) All India Land Laws Reporter 372/373

¹Ins by the Rep and Amending Act, 1891 (XII of 1891)

Ss. 46-49

The Punjab Tenancy Act, 1887

SECTION 46-47

46. Power to make rules- The Financial Commissioner may make rules prescribing.
- (a) the form and language of application and notices under the two last foregoing sections ; and
 - (b) the manner in which those applications and notices are to be signed and attested.

General Provisions Respecting Ejectment

47. *Times for ejectment*—A decree or order for the ejectment of a tenant shall not be executed at any other time than between the first day of May and the fifteenth day of June (both days inclusive), unless the Court making the decree or, where the order is made under section 44, the officer making the order otherwise directs.

SECTION 48

48. *Relief against forfeiture*—(1) If in a suit for the ejectment of a tenant on either of the grounds mentioned in clauses (a) and (b) of Section 39 or of Section 40, it appears to the Court that the injury caused by the Act or omission on which the suit is based is capable of being remedied or that an award of compensation will be sufficient satisfaction to the landlord therefore, the court may instead of making a decree for the ejectment of the tenant, order him to remedy the injury within a period to be fixed in the order, or order him to pay into court, within such a period, such compensation as the Court thinks fit.

(2) The court may from time to time, for special reasons, extend a period fixed by it under sub-section (1).

(3) If within the period, or extended period, as the case may be fixed by the Court under this section, the injury is remedied or the compensation is paid, a decree for the ejectment of the tenant shall not be made.

SECTION 49

49. *Rights of ejected tenants in respect of crops and land prepared for sowing*—(1) Where at the time of the proposed ejectment of a tenant from any land his uncut or ungathered crops are standing on any part thereof, he shall not be ejected from that part until the crops have ripened and he has been allowed a reasonable time to harvest them.

(2) The court or Revenue-officer decreeing or ordering the ejectment of the tenant may, or the application of the landlord, determine any dispute arising in consequence of the provisions of sub-section (1) between the landlord and tenant or between the landlord and any person entitled to harvest the crops of the tenant, and may in its or his discretion.

(a) direct that the tenant pay for the longer occupation of the land secured to him under sub-section (1) such rent may be fair and equitable, or

The Punjab Tenancy Act, 1887

Ss. 50 -52

(b) determine the value of the tenant's uncut and ungathered crops, and, on payment thereof by the landlord to the Court or Revenue-officer, forthwith eject the tenant.

(3) When a tenant for whose ejectment proceedings have been taken has conformably with local usage prepared for sowing any land comprised in his tenancy but has not sown or planted crops on that land, he shall be entitled to receive from the landlord before ejectment a fair equivalent in money for the labour and capital expended by him in so preparing the land, and the Court or Revenue-officer before which or whom the proceedings are pending shall, on the application of the tenant, determine the sum payable to the tenant under this sub-section and stay his ejectment until that sum has been paid to him

SECTION 50

Relief for wrongful Dispossession

50. *Relief for wrongful dispossession or ejectment*-In either of the following cases, namely-

(a) if a tenant has been dispossessed without his consent of his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of an order under Section 44 Section 45

(b) if a tenant who, not having instituted a suit under section 45, has been ejected from his tenancy or any part thereof in pursuance of an order under that section denies his liability to be ejected.

the tenant may, within one year from the date of his dispossession or ejectment, institute a suit for recovery of possession or occupancy or for compensation, or for both.

SECTION 50-A

[50-A Bar to civil suits.-No person whose ejectment has been ordered by a Revenue Court under section 45, sub-section (6), or whose suit has been dismissed under section 50, may institute a suit in a civil court to contest his liability to ejectment, or to recover possession or occupancy rights or to recover compensation].

SECTION 51

51. *Bar of relief by suit under section 9, Act I of 1877.*-Possession of a tenancy or of any land comprised in a tenancy shall not be recoverable under section 9-of the Specific Relief Act, 1877, (I of 1877) ¹[by a tenant dispossessed thereof.]

SECTION 52.

Power to vary dates prescribed by this Chapter

52. *Power for ²[State] Government to fix date for certain purposes.*(I) The ²[State] Government may, for all or any of the territories under its administration, by notification, fix for the purposes of sections 36, 45 and 47 or any of those sections, any other dates instead of those specified therein.

The Punjab Tenancy Act, 1887

Ss. 54-58

(11) No suit or other proceeding shall be instituted against the ¹[Government], or against any officer of the ¹[Government] in respect of anything done by a Revenue-officer under the two last foregoing sub sections, but nothing in this sub-section shall prevent any person entitled to receive the whole or any part of the purchase-money from recovering it from a person to whom it has been paid by a Revenue officer.

SECTION 54

54. *Procedure on foreclosure of mortgage of right of occupancy under section 5.*—Where a mortgagee of a right of occupancy under section 5 purpose to foreclose his mortgage, or otherwise enforce his lien on the land subject to the right, the provisions of the last foregoing section shall so far as they can be made applicable, apply as if the mortgage were the tenant.

SECTION 55

55. *Sale of right of occupancy under section 5 in execution of decree*—(1) A right of occupancy under section 5 may be sold in execution of a decree or order of a Court.

(2) But notice of an intended sale of any such right shall be given by the Court to the landlord, and , if at any time before the close of the day on which the sale takes place the landlord pays to the Court or to the officer conducting the sale a deposit of twenty-five per centum on the highest bid made at the sale he shall be declared to be the purchaser instead of the person who made that bid.

SECTION 56

56. *Transfer of right of occupancy under any other section than section 5.*—A right of occupancy under any other section than section 5 shall not be attached or sold in execution of a decree or order of any Court or, without the previous consent in writing of the landlord be transferred by private contract.

SECTION 57

57. *Right and liabilities of transferee of right of occupancy.*—When a right of occupancy has been transferred by sale, gift or usufructuary mortgage to a person other than the landlord that person shall, in respect of the land in which the right subsists, have the same rights and be subject to the same liabilities as the tenant to whom before the transfer the right had belonged and was subject to.

SECTION 58

58. *Subletting*—(1) A tenant having a right of occupancy in land may, subject to the provisions of this Act and to the conditions of any written contract between him and his and his landlord, sublet the land or any part thereof for any term not exceeding seven years.

(2) A person to whom land is sublet by a tenant having a right of occupancy therein shall, in respect of that land, and so far as regards the landlord be jointly with the tenant, subject to all the liabilities of the tenant under this Act.

¹subs for the word “Crown” by the Adaptation of Laws Order.

Ss 58-59

The Punjab Tenancy Act 1887

SECTION 58-A

¹[58-A. *Transfer of right of occupancy under any section of the Act by exchange.*—(1) Any tenant with a right of occupancy may, with the consent of his landlord, transfer his land to all the members of a Cooperative society for the Consolidation of holdings of which both he and his landlord are members and obtain from them any other land in exchange.

(2) Notwithstanding anything contained in this Act or any other enactment in force any land obtained in exchange in pursuance of the provisions of sub-section (1) shall be deemed to be subject to the same right of occupancy as the land given for it in exchange.]

SECTION 59-A

Succession

59. *Succession of right of occupancy.*—When a tenant having a right of occupancy in any land dies, the right shall devolve.

(a) on his male lineal descendants, if any, in the male line of descent, and

(b) failing such descendants on his widow, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom, and

²[(c) failing such descendants and widow, on his widowed mother, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom].

³[(d) failing such descendants and widow or widowed mother or if the deceased tenant left a widow or widowed mother, then when her interest terminates under clause (b) or (c) of this sub-section on his male collateral relatives in the male line or descent from the common ancestor of the deceased tenant and those relatives.]

Provided with respect to clause (d) of this sub-section that the common ancestor occupied the land.

⁵[Explanation.—For the purpose of clause (d), land obtained in exchange by the deceased tenant or any of his predecessors in interest in pursuance of the provisions of subsection (1) of section 58-A shall be deemed to have been occupied by the common ancestor if the land given for it in exchange was occupied by him]

¹Added by Punjab Act 11 of 1927, section 2. (This amendment was made effective from the 1st day of April, 1920).

²Subs. for the old clause by Punjab Act IX of 1959, section 2(i).

³Ins by Punjab Act XI of 1939 section 2(ii).

⁴Subs. for the letter “c” in brackets by Pb. Act IX of 1939, section 2(iii).

⁵Added by Pb. Act II of 1927 section 3. (This amendment was made effective from the 1st day of April, 1920).

⁶Subs for the letter “c” in brackets by Punjab Act IX of 1939 section 2 (iv).

The Punjab Tenancy Act, 1887

S 60, 61 & 62

(2) As among descendants and collateral relatives claiming under sub-section (1) the right shall, subject to the provisions of that sub-section, devolve as if it were land left by the deceased in the village in which the land subject to the right is situate.

(3) When the widow of a deceased tenant succeeds to right of occupancy, she shall not transfer the right by sale, gift or mortgagee or by sub-lease for a term exceeding one year.

(4) If the deceased tenant has left no such persons as are mentioned in sub-section (1) on whom, his right of occupancy may devolve under that sub-section the right shall be extinguished,

SECTION 60

Irregular Transfers

60. *Irregular transfers of right of occupancy.*—Any transfer made of a occupancy in contravention of the foregoing provisions of this chapter shall be void ab initio at the instance of the landlord.

CHAPTER V

Improvement and Condensation

Improvements by Landlords

SECTION 61

61. *Improvements by landlords on tenancies of occupancy tenants.*—(1) without the previous permission of the Collector, a landlord shall not make an improvement on the tenancy of a tenant having a right of occupancy.

(2) If a landlord desires to make such an improvement, he may apply to the Collector or permission to make it, and the Collector shall, before making an order on the application, hear the objection, if any, of the tenant.

(3) In making an order on an application under sub-section (2) the Collector shall be guided by such rules, if any, as the [State] Government¹ may, ²make in this behalf.

SECTION 62

62. *Enhancement of rent in consideration of an improvement made by a landlord on the tenancy of an occupancy tenant*—(1) When a landlord has, with the permission mentioned in the last foregoing section, made an improvement on the tenancy of a tenant having a right of occupancy he may apply to the Collector for an enhancement of the rent of the tenant.

(2) If the tenant is a tenant to whom section 20 applies, the Collector shall enhance his rent to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar

¹Subs. for the word "Pravincial" by the Adaptation of Laws Order, 1950.

²The words "with the previous sanction of the Governor-General in Council" were repealed by the Decentralization 1914 (IV of 1914)

Ss. 63-67

The Punjab Tenancy Act, 1887

right of occupancy, for land of similar description and with similar advantages

(3) If the tenants is a tenant to whom section 22 applies, Collector shall enhance his rent to such amount as the tenant would liable to pay under that section if the land revenue was reassessed.

(4) When the improvement ceases the exist, the Collector may, on the application of the tenant reduce the tenant's rent,--

(a) in the case of a tenant to whom sud-section (2) applies, to the share or rates, or with reference to the rent in gross, as the case may be paid by tenants, having a similar right of occupancy for land of a similar description and with similar advantages ; and

(b) in the case of a tenant to who in sub-section (3) applies, to such an amount as the tenant would be liable to pay if the land-revenue were reassessed.

(5) Section 25 and 26 shall be construed as applying to an application under this section, and a suit shall not lie in any Court for any purpose for which and application might be made under this section.

SECTION 63

Improvements by Tenants

63. *Title of occupancy tenant to make improvement.*—A tenant having a right of occupancy is entitled to make improvements on his tenancy.

SECTION 64

64. *Title of tenants not having right of occupancy to make improvements.*—(1) A tenant not having a right of occupancy may make improvements on his tenancy with the assent of his landlord.

(2) If at any time the question arises whether or not the landlord assented to the making of an improvement by a tenant not having a right of occupancy, the assent may inferred form circumstances.

SECTION 65

65. *Improvements made before commencement of this Act.*—Improvements made by a tenant before the commencement of this Act shall be deemed to have been made in accordance with this Act, unless in the case of a tenant not having a right of occupancy it is shown that the improvement was made in contravention of a written agreement between him and his landlord.

SECTION 66

66. *Improvements begun in acticipation of ejectments.*—A tenant ejected in execution of a decree, or in pursuance of a notice of ejectment shall not be entitled to compensation for any improvement begun by him after the institution of the suit, or service of the notice, which resulted in his ejectment.

SECTION 67

67. *Tender of lease for twenty years to tenant to be a bar to right to compensation.*—If a landlord tenders to a tenant a lease or his tenancy for

term of not less than twenty years from the date of the tender at the rent paid by the tenant, or at such other rent as may be agreed on the tender, if accepted by the tenant shall bar any claim by him to compensation in respect of improvements previously make on the tenancy.

SECTION 68

68. *Liability to pay compensation for improvements to tenants or ejectment or on enhancement of his rent.*—Subject to the foregoing provisions of this Chapter a tenant who has made an improvement on his tenancy in accordance with this Act shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for the improvement.

SECTION 69

Compensation for Disturbance of Clearing Tenants

69. *Compensation for disturbance of clearing tenants.*—(1) A tenant who has cleared and brought under cultivation waste-land in which he has not a right of occupancy shall if rejected from that land, be entitled to receive from the landlord as compensation for disturbance in addition to any compensation for improvements a sum to be determined by a Revenue Court of Revenue officer in accordance with the merits of the case, but not exceeding five years rent of the land.

Provided that a tenant who is joint owner of land to which this section applies shall not be entitled to compensation for disturbance on ejectment from the land or any part thereof.

(2) If rent has been paid for the land by division or appraisalment of the produce or by rates fixed with reference to the nature of the crops grown, or if no rent, or no rent other than the land-revenue of the land and the rates and cesses chargeable thereon, has been paid therefore, the compensation may be computed as if double the amount of the land-revenue of the land were the annual rent thereof.

1[Provided that in any estate of which the assessment has been confirmed on or after the twenty-second day of February, 1929, the compensation may be computed as if four times the amount of the land-revenue of the land were the annual rent thereof.]

SECTION 70

Procedure in determining compensation

70. *Determination of compensation by Revenue Courts.*—(1) In every suit by a tenant to contest his liability to ejectment or by a landlord to eject a tenant or to enhance his rent, the Court shall direct the tenant to file a statement of his claim, if any, to compensation for improvements or for disturbance and of the grounds thereof.

(2) If the Court decrees the ejectments of the tenant or the enhancement of his rent it shall determine the amount of compensation, if any, due to the tenant and shall stay execution of the decree until the landlord pays into Court that amount less any arrears of rent or costs proved to the satisfaction of the Court to be due to him from the tenant.

(4)
Ss.71-74

The Punjab Tenancy Act, 1887

SECTION 71

71. Determination of compensation by Revenue officers. - In either of the following cases, namely: -

- (a) when a notice has been served on a tenant under section 44,
- (b) when a notice of ejectment has been served on a tenant under section 45 and the tenant has not instituted a suit to contest his liability to be ejected.

the tenant may apply to the Revenue-officer having authority to order his ejectment under section 44 or section 45 as the case may be, to determine the amount of compensation due to him for improvement or for disturbance or for both and the Revenue officer shall determine the amount, if any, accordingly and stay the ejectment of the tenant until the landlord pays to the Revenue-officer the amount so determined less any arrears of rent or costs proved to the satisfaction of the Revenue-officer to be due to the landlord from the tenant.

SECTION 72.

72. Matters to be regarded in assessment of compensation for improvement.-In estimating the compensation to be awarded under this Chapter to a tenant for an improvement, the Court or Revenue officer shall have regard to-

- (a) the amount by which the value or the produce of the tenancy or the value of that produce is increased by the improvement;
- (b) the condition of the improvement and the probable duration of its effects
- (c) the labour and capital required for the making of such an improvement ;
- (d) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement; and
- (e) in the case of a reclamation, or of the conversion of un irrigated into irrigated land, the length of time during which the tenant has had the benefit of the improvement.

SECTION 73

73. Form of Compensation.-(1) The compensation shall be made by payment in money, unless the parties agree that it be made in whole or in part by the grant of a beneficial lease of land or in some other way.

- (2) If the parties so agree, the Court or Revenue-officer shall make an order accordingly.

SECTION 74

*Relief in case of ejectment before the determination of
Compensation*

74. Relief in case of ejectment before determination of compensation.-(1) If from any

cause the amount of compensation payable to a tenant-

(a) under this Chapter for improvements of disturbance, or

The Punjab Tenancy Act , 1887

Ss. 75-76

(b) under section 49 for the value of uncut or ungathered crops of the preparation of land or sowing,

has not been determined before the tenant is ejected, the ejection shall not be invalidated by reason of the omission, but the Court or Revenue-officer which decree or who ordered the ejection may, an application made by the tenant within one year from the date of the ejection, correct the omission by making in favour of the tenant an order for the payment to him by the landlord of such compensation as the Court or officer may determine the tenant to be entitled to.

(2) An order made under sub-section (1) may be executed in the same manner as a decree for money may be executed by a Revenue Court.

SECTION 75
CHAPTER VIII
Jurisdiction and Procedure
Jurisdiction

75. *Revenue officers*—(1) There shall be the same classes of Revenue officer under this Act as under the Punjab Land Revenue Act, 1887, (XVII of 1887) and in the absence of any order of the 1[State] Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under that Act shall be Revenue-officer of the same class having jurisdiction within the same local limits under this Act.

(2) The expressions “Collection” and “Financial Commissioner have the same meaning in this Act as in the Punjab Land Revenue Act, 1887, (XVII of 1887),

SECTION 76

76. *Application and proceedings cognizable by Revenue officers*.—(1) The following applications and proceedings shall be disposed of by Revenue-officers as such and no Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had.

FIRST GROUP

(a) proceedings under section 27 for the adjustment of rents expressed in items of the land-revenue,

(aa) 2[---]

(b) proceedings relating to the remission and suspension of rent under section 30;

(c) applications under section 43 for the ejection of a tenant against whom a decree for an arrear of rent in respect of his tenancy has been passed and remains unsatisfied;

1Subs. for the word “provincial” by the Adaptation of Laws Order, 1950.

2Clause (aa) inserted by section 11 of Punjab Act 11 of 1925 has been omitted by the Indian (Adaptation of existing Indian Laws) Order, 1947, section 4(1)

S. 76

The Punjab Tenancy Act, 1887

(d) application under section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected but has claimed compensation under section 71.

(e) application under section 53 or section 54 for the fixing of the value of a right of occupancy ;

(f) application under section 53 or section 55 by landlord for possession of land the right of occupancy in which has become extinct ;

(g) proceedings under Chapter VI with respect to the award of compensation for improvements or disturbance;

SECOND GROUP

(h) application under section 17 with respect to the division or appraisal of produce ;

(I) application under section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected and has not claimed compensation under section 71;

(j) application for the determination .

(i) under section 49 of the rent payable for land occupied by crops uncut or ungathered at the time of an order being made for the ejectment of a tenant, or

(iii) under section 49 or section 74 of the value of such crops or of the sum payable to the tenant for labour and capital expended by him in preparing land for sowing.

THIRD GROUP

(k) applications under section 31 by tenants to deposit rent;

(1) applications under section 36 for service of notice of relinquishment;

(m) applications under Section 43 for service of notice of ejections;

(n) applications under section 53 or section 54 for service of notice of intended transfer or of intended foreclosure or other enforcement of lien.

(2) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,--

(a) a Collector or an Assistant Collector of the first grade may dispose of any of the applications and proceedings mentioned in sub-section (1);

(b) an Assistant Collector of the second grade, not being a Naib-Tahsildar, may dispose of any of the applications mentioned in the second and third group of that sub-section ; and

(c) a Naib-Tahsildar when invested with the powers of an Assistant Collection of the second grade, may dispose of any of the applications mentioned in the third group of that sub-section.

The Punjab Tenancy Act, 1887

S. 77

SECTION 77

77. *Revenue Courts and Suit cognizable by them.*- (1) When a Revenue-officer is exercising jurisdiction with respect to any such suit as is described in sub-section (3), or with respect to an appeal or other proceeding arising out of any such suit, he shall be called a Revenue Court.

(2) There shall be the same classes of Revenue Courts as of Revenue officers under this Act, and, in the absence of any order of the [State] Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under this Act shall be a Revenue Court of the same class having jurisdiction within the same local limits.

Procedure where Revenue matter is raised in a Civil Court.—(3) The following units shall be instituted in, and heard and determined by Revenue Courts, and no other Court shall take cognizance of any dispute or matter with respect to *which* any such suit might be instituted:-

2[Provided that-

(1) where *in* a suit cognizable by and instituted in a *Civil Court* it becomes necessary to decide any matter which can under this sub section be heard and determined only by a Revenue Court the Civil Court shall endorse upon the plaint the nature of the matter for decision and the particulars required by Order VII rule 10, Civil Procedure Code (V of 1908), and return the plaint for presentation to the Collector ;

(2) on the plaint being presented to the Collector, the Collector shall proceed to hear and determine the suit where the value thereof exceeds Rs. 1,000 or the matter involved is of the nature mentioned in section 77(3). First Group, of the Punjab Tenancy Act, 1887 (XVI of 1837), and in other cases may send the suit to an Assistant Collector of the first grade for decision.]

FIRST GROUP

(a) suits between landlord and tenant for enhancement or reduction of rent under section 24 ;

(b) suits between landlord and tenant for addition to or abatement of rent under section 28 or for commutation or rent ;

(c) suits under section 34 for the determination of rent or other sum on the expiration of the . term of an assessment of land-revenue 3[and suits relating to the rent to be paid under a mortgage made in accordance with form (c) as prescribed by section 6 of the 4Punjab Alienation of Land Act, 1900 (XVI of 1900)];

SECOND GROUP

(d) suit by a tenant to establish a claim to a right of occupancy, or by a landlord to prove

that a tenant has not such a right;

1Subs. for the words "Provincial" by the Adaptation of Laws Order,1950.

2Added by Punjab Act 3 of 1912, Section 2.

3Added by the Punjab Alienation of Land Act, 13 of 1900, S. 22.

4Repealed by the Adaptation of Laws (Third Amendment) Order,1951.

S.77 The Punjab Tenancy Act, 1887

(e) suits by a landlord to eject a tenant ;

(f) suits by a tenant under section 45 to contest liability to ejection when notice of ejection has been served ;

(g) suits by a tenant under section 50 for recovery of possession or occupancy, or for compensation or for both ;

(h) suits by a Landlord to set aside a transfer made of a right of occupancy, or to dispossess a person to whom such a transfer has been made or for both purposes ;

(i) any other suit between landlord and tenant arising out of the lease or condition on which a tenancy is held ;

(j) suit for sums payable on account of village cesses or village expenses ;

(k) suits by a co-sharer in an estate or holding for a share of the profits thereof or for a settlement of accounts ;

(l) suits for the recovery of over-payments of rent or land-revenue or of any other demand for which a suit lies in a Revenue Court under this sub-section;

(m) suits relating to the emoluments of Kanungo, zaildars, inamdars or village officers ;

THIRD GROUP

(n) suits by a landlord for arrears of rent or the money-equivalent of rent, or for sums recoverable under section 14; 3[or suits for the recovery of such arrears or sums by any other person to whom a right to recover the same has been sold or otherwise transferred,]

(o) suit by a landowner to recover moneys claimed as due for the enjoyment of rights in or over land or in water, including rights of irrigation, rights over fisheries, rights of pasturage and forest-rights ;

(p) suits for sums payable on account of land-revenue or of any other demand recoverable as an arrear of land-revenue under any enactment for the time being in force, and by a superior landowner for other sums due to him as such.

(4) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,-

(a) a Collector may hear and determine any of the suits mentioned in sub-section (3) ;

(b) an Assistant Collector of the first grade may hear and determine any of the suits mentioned in the second and the third groups of -that subsection, and, if he has by name been specially empowered in this behalf by the 2[State] Government, any of the suits mentioned in the first group; and

(c) an Assistant Collector of the second grade may hear and determine any of the suits mentioned in the third group.

1Added by Punjab Act 18 of 1963, Section 2.

2Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

The Punjab Tenancy Act, 1887

S. 77

COMMENTARY

-S. 77- Suit against custodian to claim occupancy right and property under section 9 of the Punjab Occupancy Tenants Vesting of Property Right Act, 1963 can be filed only in revenue Court.

1990(1) All India Land Laws Reporter 209

-S. 77(3)- Court Fees Act, 1870-Deficiency in Court fees—Deficiency in court fee cannot and does not render the suit non-maintainable. Such deficiency could be rectified by the Court during the proceedings under Punjab Tenancy Act, 1887.

1995(2) All India Land Laws Reporter 27

-S. 77(3)- Joint land-owner—All land-owners need not be impleaded For rejeetment for Hissedari-kashi, land owner to whose share the land under the tenant fall can maintain a suit for ejection of tenant.

1995(2) All India Land Laws Reporter 27

-S. 77(3)- Punjab Security of Land Tenures Act, 1953—S. 14. A—It is mandatory for the Revenue Court to issue notice in Form N as prescribed under Section 14-A(ii) of the Punjab Security of Land Tenures Act even though suit for ejection was filed under S.77(3) of Punjab Tenancy Act—No such procedure was followed by the revenue Courts and the Commissioner failed to deal with this point—Ejection of the respondent ordered by the Assistant Collector Grade I suffers from the infirmity of law—Orders set aside

1995(2) All India Land Laws Reporter 27

-S. 77—Civil Procedure Code, 1908—Order 6, Rule 17—Prayer for amendment or written statement declined on the ground that similar prayer has not been made in the suit No. 543 of 1983—Trail Courts reasoning is untenable—Suit, not reference, is for permanent injunction and objection to jurisdiction of Civil Courts could not be take up in that—Grant of injunction is Civil Courts domain—Amendment of written statement allowed.

1991(1) All Indian Land Laws Reporter 569

-S. 77(3) (d)—Title and ownership of the land held by an occupancy tenant would be acquired by the occupancy tenant on coming into force of the vesting Act—And such interest of the Landlord shall existinguish in that land from that date—Jurisdiction would thereafter be only with the civil court—Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act. 1953 Section 3.

1993(1) All India Land Laws Reporter 226

-S. 77(3) and section 15—Payment of Part of the rent to a party—Jointly owing the land, tenant is not bound to do so—Tenancy being joint the rent cannot be paid in parts to owner-parties—Suit for recovery of rent is to be one no separate suits are maintainable.

1991(1) All India Land Laws Reporters 319

SECTION 78

Administrative Control

78. *Superintendence and control of Revenue officers and Revenue Court.*—(1) The general superintendence and control over all other Revenue-officers and Revenue Courts shall be

vested in, and all such officers and Courts shall be subordinate to, the Financial Commissioner.

Ss. 79-80

The Punjab Tenancy Act, 1887

(2) Subject to the general, superintendence and control of *the* Financial Commissioner, Commissioner shall control all other Revenue-Officers and Revenue Courts in this division.

(3) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue officers and Revenue Courts in his district.

SECTION 79

79. Power to distribute business and withdraw and transfer cases. The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue-officer or Revenue Court under his control.

(2) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer or Revenue Court under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer or Revenue Court under his control.

(3) An order under sub-section (1) or sub-section (2) shall not empower any Revenue-officer or Revenue Court to exercise any powers or deal with any business which he or it would not be competent to exercise or deal with the local limits of his or its own jurisdiction.

Appeal Review and Revision

SECTION 80

80. Appeals.-Subject to the provisions of this Act and the rules there under, an appeal shall lie from an original or appellate order or decree made under this Act by a Revenue-officer or Revenue Court, as follows, namely :-

(a) to the Collector when the order or decree is made by an Assistant Collector of either grade;

(b) to the Commissioner when the order or decree is made by a Collector;

(c) to the Financial Commissioner when the order or decree is made by a Commissioner;

Provided that-

(i) an appeal from an order or decree made by an Assistant Collector of the first grade specially empowered by name in that behalf by the [State] Government in a suit mentioned in the first group of subsection (3) of section 77 shall lie to the Commissioner and not to the Collector ;

(ii) when an original order or decree is confirmed on first appeal a further appeal shall not lie.

(iii) when any such order or decree is modified or reversed on appeal by the Collector, the order or decree made by the Commissioner on further appeal, if any, to him shall be final.

 Sub. for the word "Provincial" by the Adaptation of Laws Order, 1950.

The Punjab Tenancy Act, 1887

Ss. 80-82

COMMENTARY

-S. 80-H. P. Tenancy and Land Reforms Act, Section 61—Interim injunction granted in favour of Respondent No.1 against confiscation of 619 bighas of land in favour of State-State filed appeal Commissioner vacated the stay-Respondent No. 1 is in appeal before FC with the preliminary objection that appeal is not maintainable against an interlocutory order- Held-Order of the Commissioner on the stay application was not interlocutory—Appeal was maintainable-Impugned order dated 20th January, 1992 stayed-Appeal not finally decided -Case file sent back to Commissioner for deciding appeal as per law .

1993(1) All India Land Laws Reporter 145

Ss. 80 and 81—limitation for filing appeal-Starts from the date order declaring surplus area comes to knowledge of person affected interested such an order is to be recorded in form "F " and is to be forwarded to the person interested-Not done in the case.

1992 (1) All India Land Laws Report

SECTION 81

81. Limitation for appeals.- The period of limitation for an appeal under the last foregoing section shall run from the date of the order or decree appealed against, and shall be allows, that is to say : -

- (a) when the appeal lies to the Collector-thirty days;
- (b) when the appeal lies to the Commissioner-sixty days;
- (c) when the appeal lies to the Financial Commissioner-ninety days.

SECTION 82

82. Review by Revenue officer.-(1) A Revenue-officer as such, may either of own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm any order passed by himself or by any of his predecessors in office :

Provided as follows :-

(a) When a Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and' when a Revenue-officer of a class below that of Collector purposes to review any order whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject ; .

(b) no application for review of an order shall be entertained unless it as made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period ;

(c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order ;

(d) an order against which an appeal has been preferred shall not reviewed.

(2) For the purposes of this, section the Collector shall be deemed to

83. 83 - 84

The Punjab Tenancy Act, 1887

be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise power as a Revenue-officers, and to whom there is no successor in office.

(3) An appeal shall not lie from and order refusing to review, or confirming on review, a previous, order.

COMMENTARY

-S. 82- Only a new material on record can call for a second review which otherwise is not called for and the Collector (Agr.) having reviewed case earlier would act as *resjudicata* for fresh review-Bonafides of sales keeping in view surplus area had been held valid and previous order confirmed --Second review is not the alternative remedy to appeal or revision Repeated reviews of already reviewed orders militates against sound principles of law.

1994(2) All India Land Laws Reporter 15

SECTION 83

83. *Computation of periods limited for appeals and application for review.*--In the computation of the period for an appeal from or an application for the review of, an order under this Act, the limitation therefore shall be governed by the Indian Limitation Act, 1877.¹

SECTION 84

84. *Power to call for, examine and revise proceedings of Revenue officers and Revenue Courts.*- (1) The Financial Commissioner may at any time call for the record of any case pending before or disposed of by any Revenue officer or Revenue Court subordinate to him,

(2) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court under his control.

(3) If any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or the order or decree made should be modified or reversed, he shall submit the record with his opinion on the case for the orders of the Financial Commissioner.

(4) If, after examining a record called for by himself under subsection (1) or submitted to him under sub-section (3). the Financial Commissioner is of opinion that it is inexpedient to interfere with the proceedings or the order or decree, it shall pass an order accordingly.

(5) If, after examining the record, the Financial Commissioner is of opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the [High Court] in the exercise of its revisional jurisdiction may under the law for the time being in force interfere with the proceedings or an order or decree of a Civil Court, he shall fix a day for hearing the case, and may, on that or any subsequent day to which he may adjourn the hearing or which he may appoint in this behalf, pass such order as he thinks it in the ease.

(6) Except when the Financial Commissioner fixes under subsection (5) a day for hearing the case, no party has any right to be heard before the Financial Commissioner when exercising his powers under this section.

 Subs. for the words "Chief Court" by Act 18 of 1919.

-S. 84-Before the F.C., petitioner has himself demolished his plea of adverse possession for over 20 years and has accepted the factum of tenancy under the Education Society on 1/3 batai through a third person who was never in possession—In the revision, which scope is very limited the petitioner has to prove misharriage of justice either because of wrong, exercise of power or Revenue officers having grossly misunderstood the facts—Petitioners denial of relationship of tenant and landlord Lever succeeded-Revision disposed of by the Commissioner by a one-line non speaking order is distressing—Revision devoid of merit, is dismissed.

1996 (1) All India Land Laws Reporter 472

SECTION 85

Procedure

85. *Procedure of Revenue-officer.*-(1) The [State] Government may make rules² consistent *with* this Act for regulating the procedure of Revenue officers under this Act in case in which a procedure is not prescribed by this Act.

(2) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of, immovable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery or possession of such property.

(3) The rules may also provide for the mode of executing orders as to costs, and may adopt to proceedings under this Act all or any of the provisions of the Punjab Land Revenue Act, 1887, (VII of 1887), with respect to arbitration.

(4) Subject to the rules under this section, a Revenue-officer may refer any case which he is empowered to dispose of under this Act to another Revenue-officer for investigation and report, and may decide the case upon the report.

SECTION 86

86. *Persons by whom appearances may be made before Revenue officers as such and not as Revenue Courts.*-(1) Appearances before a Revenue officer as such, and applications to and acts to be done before him, under this Act may be made or done-

- (a) by the parties themselves, or
- (b) by their recognized agents or a legal practitioner.

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal appearance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

¹Subs. for the words "Provincial" by the Adaptation of Laws Order, 1950 .

²For rules under section 35(1) see notification No. 77, Punjab Gazette, Extraordinary, 1st March, 1888, page 79.

³Subs. for the word "Provincial" by the Adaptation of Law Order, 1950.

Ss. 88--90

The Punjab Tenancy Act, 1387

(2) For the purposes of sub-section (1), recognised agents shall be such persons as the 3[State] Government may by notification declare in this behalf.

(3) The fees of a legal practitioner shall not be all owed as cost in any proceedings before a Revenue officer under this Act, unless that officer considers, for reasons to be recorded by him in writing that the fees should be allowed.

SECTION 87

87. *Costs.*-(1) A Revenue-officer may give and apportion the costs of any proceedings under this Act in any manner he think fit.

(2) But if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

SECTION 88

88. *Procedure of Revenue Courts.*-(1) The 1[State] Government may² 3[--] make rules consistent with this Act for regulating the procedure of Revenue Court in matters under this Act for which a procedure is not prescribed thereby, and may by any such rule direct that any provision of the 1Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before those Courts.

(2) Until rules are made under sub-section (1), and subject to those rules when made and to the provisions of the Act,-

(a) the 4Code of Civil Procedure shall, so far as it is applicable, apply to all proceedings in Revenue Courts whether before or after decree; and

(b) the Financial Commissioner shall, in respect of those proceeding be deemed to be the High Court within the meaning of that Code, and shall, subject to the provisions of this Act, exercise, as regards the Courts under his control, all the powers of a High Court under the Code.

SECTION 89

89. *Power of Revenue officer or Revenue Court to summon persons.*(1) A Revenue officer or Revenue Court may summon any persons whose attendance he or it considers necessary for the purpose of any application, suit or other business before him or it as a Revenue-Officer or Revenue Court.

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or if the summons so allows, by his recognized agent or a legal practitioner.

(3) The person attending in obedience to t he summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements and to produce such documents and other things relating to any such matter as the Revenue-"Officer or Revenue Court may require.

1The words "with the previous sanction of the Governor-General in Council" were repealed by the Decentralization Act, 4 of 1914.

²For rules see, Punjab Gazette; 1902, Part I, page 845.

³See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

The Punjab Tenancy Act, 1887

Ss.91-95

SECTION 90

90. Mode of service of summons.- (I) A summons issued by a Revenue-Officer or Revenue Court, if practicable, be served (2) personally on the person to whom it is addressed, or failing him on (b) his recognized agent on (c) an adult male member of his family who is residing with him.

(2) If service cannot be so made or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue Officer is employed or the Revenue Court is held and the case to which the summons relates has reference to land in that district, then by pasting a copy of the summons on some conspicuous place in or near the estate wherein the land is situated.

(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-Officer or Revenue Court so directs, be served by delivery of a copy thereof to such of those persons as the officer or Court nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(4) A summons may if the Revenue-officer or Revenue Court so directs be served on the persons named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Part III of the Indian Post Office Act, 1886¹, (XIV of 1866)

(5) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the officer or Court may presume that the summons was served at the time when the letter would be delivered in the ordinary course of posts.

SECTIONS 91-96

91. Mode of Service of notice order of proclamation or copy thereof. --A notice, order or proclamation, or copy of any such document issued by a Revenue-Officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

92. Additional mode of publishing proclamation.-When a proclamation relating to any land is issued by a Revenue-Officer or Revenue Court, it shall, in addition to any other mode of application which may be prescribed by any enactment for the time being in force, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

93. Joinder of tenants as parties to proceedings relating to rent.-(1) Any number of tenants cultivating in the same estate may, in the direction of the Revenue-Officer or Revenue Court and subject to any rules, which the [State] Government may make in this behalf, be made parties to any proceeding under Chapter III.

¹See now the Indian Post Office Act, 1898 (6 of 1898).

²Subs. for the word "Provincial" by the Adaptation of Laws Order 1950.

(5)
Ss.97-99

The Punjab Tenancy Act, 1887

(2) But a decree or order shall not be made in any such proceeding unless the Revenue-Officer or Revenue Court is satisfied that all the parties thereto have had an opportunity of appearing and being heard.

(3) A decree or order made in any such proceedings shall specify the extent to which each of the tenants is affected thereby.

94 Exception of suits under this Act from operation of certain enactment.-Nothing In section 424 of the 1Code of Civil Procedure XIV of 1882 or in section 6 of the 2Punjab Municipal Act. 1834, (XIII of 1884) shall be construed to apply to it suit of a class mentioned in section 77 of this Act.

95. Payment into Court of money admitted to be due to a third person. -When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person, the Court seal, except for special reasons to be recorded by It, refuse to take cognizance of the plea unless the defendant pays into Court the amount to admitted to be due.

(2) Where such a payment is made the Court shall forthwith cause notice of the payment to be served on third person.

(3) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment of the money, it shall be paid to the plaintiff on his application to the Court therefor.

(4) Nothing in this section shall effect the right of any person to recover from the plaintiff money paid to him under sub-section (3)

(5) When a defendant pays money into Court under this section, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person as the case may be.

96. Execution of decree or arrears of rent.-A court passing a decree for an arrear of rent may, on the oral application of the decree holder, order execution thereof against the movable property of the tenant, against any uncut or ungathered crops on the tenancy in respect of which the arrear is decreed.

SECTION 97

97. Prohibition of imprisonment of tenants in execution of decrees for rent.-A tenant shall not, during the continuance of his occupancy, be liable to imprisonment on the application of his landlord in execution of a decree for an arrears of rent.

SECTIONS 98 --99

98. Power to refer party to Civil Court.-(1) If, in any proceeding pending before Revenue Court exercising original, appellate or revisional

1See Now the Code of Civil Procedure, 1908 (Act 5 of 1908).

2See now the Punjab Municipal Act, 1911 (Punjab Act 3 of 1911).

jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Court, if any, to the control of which it is immediately subject require, by order in writing, any party to the proceeding to institute, within such time as it may fix in this behalf, a suit in the Civil Court for the purpose of obtaining a decision on the question, and, if he fails to comply with, the requisition, may decide the question as it thinks fit.

(2) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceeding pending before it in accordance with the final decision of the Civil Court of first instance or appeal, as the case may be.

99. *Power to refer to High Court questions as to jurisdiction*—(1) If the presiding officer of a Civil or Revenue Court in which a suit has been instituted doubts whether he is precluded from taking cognizance of the suit, he may refer the matter through the 1[District Judge] or Commissioner, or, if he is a 1[District Judge] or Commissioner directly to the 2[High Court].

(2) On any such reference being made, the 2[High Court] may order the presiding officer either to proceed With the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

(3) The order of the 2[High Court] on any such reference shall be conclusive as against persons who are not parties to the suit as well as against persons who are parties thereto.

SECTION 100

100. *Power of High Court to validate proceedings held under mistake as to jurisdiction.*—In either of the following cases, namely: _

(a) if It appears to a Civil Court that a Court under its control has determined a suit or a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court or

(b) if it appears to a Revenue Court that a Court under its control has determined a suit which should have been heard by a Civil Court, the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the 2[High Court].

(2) If on perusal of the record it appears to the 2[High Court] that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the 2[High Court] may order the decree be registered in the Court which had jurisdiction.

(3) If it appears to the 2[High Court] otherwise than on submission of a record under sub-section (1), that a Civil Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a

1Subs. for "Divisional Judge" by the Punjab Courts Act, 1918 (6 of 1911) Section 49.

2Subs. for the word "Chief Court" by Act 18 of 1919.

Ss. 101-104

The Punjab Tenancy Act, 1887

Revenue Court the 1[High Court] may pass any order which it might have, passed if the record had been submitted to it under that sub-section.

(4) With respect to any proceeding subsequent to decree, the 1[High Court] may make such order for its registration in a Revenue Court or Civil Court as in the circumstances appear to be just and proper.

(5) An order of the 1[High Court] under this section shall be conclusive as against persons who were not parties to the suit or proceeding as well as against persons who were parties thereto, and the decree or proceeding to which the order relates shall have effect as if it had been made or had by the Court in which the order has required it to be registered.

(6) The provisions of this section shall apply to any suit instituted on or after the first day of November, 1884, and to proceeding arising out of any such suit.

SECTIONS 101-103

Miscellaneous

101, *Place of sitting*.---(1) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in Which he is employed.

(2) Any other Revenue-officer or Revenue Court may only exercise his or its powers under this Act within the local limits of his or its jurisdiction.

102. *Holidays*---(1) The Financial Commissioner, with the approval of the 2[State] Government, shall publish in the 3[Official Gazette] before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers and Revenue Courts.

(2) A proceeding had before a Revenue-Officer or Revenue Court on a day specified in the list as a day to be observed by the officer or Court as a holiday shall not be invalid by reason only of its having been had on that day,

103. *Discharge of duties of Collector died or being disabled* When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of , the district under any orders which may be generally or specially issued by the [State] Government on this behalf shall be deemed to be a Collector under this Act.

SECTIONS 104-105

104. *Retention (If powers by Revenue Officer on transfer*---When a Revenue Officer of any class who, either as such or as a Revenue Court, . has under the foregoing provisions of this Act any powers to be exercised in any local area is transferred from that local area to another as a

1Subs. for the words "Chief Court" by Act 18 of 1919.

2Subs. for the word "Provincial" by the Adaptation of Laws Order 1950.

3Subs. for the words "Local Official' Gazette" by the Government of India (Adaptation of Indian Laws) Order 1937.

Revenue-Officer or Revenue Court of the same or a higher class, he shall Continue to exercise those powers in that other local area, unless the 1[State] Government otherwise directs or has otherwise directed.

105. Confesment or powers of Revenue Officer or Revenue Court—The 1[State] Government may by 2notification confer on any person--

(a) all or any of the powers of a Financial Commissioner Commissioner or Collector under this Act, or

(b) all or any of the powers with which an Assistant Collector of either grade is, or may be, invested there under and may by notification withdraw any powers so conferred.

(2) A person on whom powers are conferred under sub-section (I) shall exercise those powers within such local limits and in such classes of cases as the 1[State], Government, may direct, and, except as otherwise directed by the 1[State] Government shall for all purposes connected with the exercise thereof be deemed a Financial commissioner, Commissioner, Collector or Assistant Collector, as the case may be.

(3) Before conferring powers on the judge of a Civil Court under sub-section (I), the 1[State] Government shall consult the 3[High Court].

(4) If any of the powers of a Collector under section 78 section 79, section 80 or section 82 are conferred on an Assistant Collector, they shall, unless the 1[State] Government by special order otherwise direct, be exercised by him subject to the control of the Collector.

SECTIONS 106-110

106. Power for Financial Commissioner to make rules--(I) The Financial Commissioner, may in addition to the other rules which may be made by him under this Act, makes rules consistent with this Act and any other enactment for the time being in force,-

(a) determining, notwithstanding anything in any record-of-rights, the number and amount of the installments and times by and at which rent is to be paid ;

(b) for the guidance of Revenue-officers is determining for the purposes of this Act, the amount of the land revenue of any land ;

(c) prescribing, for all or any of the territories to which this Act extends, the periods during which, in proceedings held under this Act, a Revenue-Officer or Revenue Court is not, except for reasons of urgency to be recorded, to issue any process of arrest against a tenant or against a landowner who cultivates his own land ;

(d) regulating the procedure in cases where persons are entitled to inspect records of Revenue Offices or Revenue Courts, or to obtain copies of the same and prescribing the fees payable for searches and copies ;

(e) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made-or complied in Revenue Offices or Revenue Courts or submitted to any authority ;

(f) declaring what shall be the language of any of those offices and Courts, and determining in what cases persons practising in those offices .

1Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

2For Notification see Punjab Govt. Gazette, 1908, Part 1 page 928.

3Subs. for the words "Chief Court" by Act 18 of 1918.

Ss.110

The Punjab Tenancy Act. 1887

and Courts shall be permitted to address the presiding officers thereof in English and

(g) generally for the guidance of Revenue-Officers and other persons in matters connected with the enforcement of this Act.

(2) Until rules are made under clause (a) of sub-section (1), rent shall be payable by the installments and at the times by and at which it is now payable,

(3) Rules made by the Financial Commissioner under this or any other section of this Act shall 1[be made subject to the control of]the 2[State] Government.

Punjab Amendment

3[106.A –*Licensing of petition writers in Revenue Courts and Revenue Officers--* (I) No person shall practise as a petition-writer in any Revenue Court or Revenue Office, unless he has been licensed under rules made under this Act.

(2) A person who contravenes the provisions of sub-section (I) shall be liable to the prescribed penalty which shall not exceed fifty rupees, in any case.

(3) The Financial Commissioner may, from time to time, make rules (consistent with this Act and other enactments for the time being in. force :-

(i) declaring what persons shall be permitted to-act as petition writers in the Revenue Courts and Revenue Offices-;

(ii) regulating the issue, suspension and revocation of licenses to such persons, the fees payable for the issue of licenses, the conduct of business by them and the scale of fees to be charged by them; and

(iii) providing for the penalty that may be imposed under sub-section (2), the authority who shall be competent to impose penalty under that sub-section and the authority to whom an appeal against an order of refusal to issue a licence or suspension or revocation of licence or imposition of penalty shall lie.]

107. *Rules to be made after previous publication.*—The power to make any rules under this Act is subject 4[--] to the condition of the rules being made after previous publication.

108. *Powers exercisable by Financial Commissioner.*—All powes conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

CHAPTER VIII

Effect of this Act on Records-or-Rights and Agreements

109. *Nullity of certain entries of records-of rights.*—An entry in any record-of-rights providing-

(a) that a landlord may prevent a tenant from making, or eject him for making, such improvements on his tenancy as he is entitled to make, under this Act, or

1Subs. for she words "shall not take effect until they have been sanctioned by" by the Decentralization Act 1914 (4 of 1914).

2Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950

3Ins, by Punjab Act 18 of 1069,Section 2.

4The words "to the control of the Governor General-in-Council and" were repealed by the

Devolution Act 38 of 1920 Section 2 Schedule I.

The Punjab Tenancy Act, 1887

Ss. 111-112

(b) that a tenant ejected from his tenancy shall not be entitled to Compensation for improvements or for disturbance in any case in which he would under this Act be entitled to compensation therefore, or

(c) that a landlord may eject a tenant otherwise that in accordance with the provisions of this Act, shall be void to that extent.

110. Nullity of certain agreements contrary to the Act.-(I) Nothing in any agreement made between a landlord and a tenant after the passing of this Act shall-

(a) override any of the provisions of this Act with respect to the acquisition of a right of occupancy, or the reduction, remission or suspension of rent, or the enhancement of the rent of a tenant having a right of occupancy under Section 5 or Section 6, or

(b) take away or limit the right of a tenant as determined by this Act to make improvements and claim compensation therefore, or, where compensation for disturbance can be claimed under this Act, to claim such compensation, or

(c) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.

(2) Nothing in clause (a) of sub-section (I) shall apply to an agreement by which a tenant binds himself to pay an enhanced rent in consideration of an improvement which has, been, or is to be, made in respect of his tenancy by, or at the expense of, his landlord, and to the benefit of which -the tenants not otherwise entitled.

SECTIONS 111-112

111. Saving of other agreements when the writing. -Save as expressly provided in this Act, nothing in this Act shall affect the operation of any, agreement between a landlord and a tenant, when the agreement either is in writing or has been recorded in a record-of-rights before the passing of the Punjab Land Revenue Act, 1887, (XVII of 1887) or been entered by order, of a Revenue Officer in a record-of-rights or annual record under the provisions of the Act.

112. Effect of certain entries made in records-of-rights before November 1871.- An entry made with respect to any of the following matters before the eighteenth day of November, 1871, and attested by the proper officer, in the record of a regular settlement sanctioned by the1[State] Government, namely :-

(a) enhancement or abatement of the rent of a tenant having a right of occupancy, or the commutation of rent in kind into rent in money or of rent in money into rent in kind or the taking of rent in kind by division or appraisalment of the produce or other procedure of a like nature, or

(b) the letting or under-letting of land in which there is a right of occupancy by the tenant having that right-or the alienation of or Succession to land in which such a right, subsists. shall be deemed to be agreement within the meaning of the last foregoing section.

THB SCHEDULE

Repealed by the Repealing and Amending Act, 1891 (XII of 1891)

S. 2(1(and first Schedule]

¹The Punjab Tenancy Rules, 1909
Limitation of Jurisdiction of Assistant Collector of the 2nd Grade

2[. (i) **Limitation of powers of Naib-Tahsildars.**- A Naib-Tahsildar invested with the powers of an Assistant Collector of the 2nd grade shall not hear and determine a suit of any description mentioned in the 3rd group of sub-section (3) of Section 77 in which the rent or sum claimed exceeds Rs 3[500] in amount.

(ii) **Limitation of powers of other Assistant Collector 2nd grade** -Other Assistant Collectors of , the 2nd grade shall not hear and determine a suit of any description mentioned in the 3rd group of sub-section (3) of Section 77 in which the rent or sum claimed exceeds Rs. 4[1000] in amount.

⁵ Procedure of Revenue Officers

2. (i) **Statements and pleadings to be brief.**- 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 such as possible to a simple and concise narrative of the facts which the party by whom or on whose behalf the statement or pleading is made believe, to be material to the case, and which he either admits or believes that he will be able to prove .

(ii) **Verification of applications.**-Every written application of 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.

3. **Proceeding not to abate on death or marriage of party**--The death of one of the parties to a revenue proceeding, or in a proceeding to which a female is a party, for 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.

4. **In fixing dates, etc., revenue officer to follow procedure of Revenue Court Commission.**-In fixing dates for the hearing of parties and their witness in adjourning proceedings, and in dismissing applications on default or for other sufficient reason, a revenue officer will so far as the nature of the case may require or permit, be guided generally by the principles of the procedure for the time being in force in revenue courts.

1Published,-vide Financial Commissioner's notifications Nos.78 and 79 of Punjab Gazette (Extraordinary), dated 1st March, 1881, pages 91 and 66 respectively.

2Financial Commissioner's notification No. 145, dated 18th November, 1909.

8Sub. by Financial Commissioner's notification No. 8583-E-53/5464, dated 21st September, 1953.

4Subs. by ibid.

5Punjab Government notification No, 77, dated 1st March, 1888.

5. The provisions of sections-75-78 of the Civil Procedure Code and of Schedule I, Order XXVI, annexed to the said Code in respect of commissions shall apply in the case of proceedings before a revenue officer.

6. Expenses of witnesses.--(i) 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.

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

7. Record of other proceedings under Tenancy Act.- In proceedings before a revenue officer under the Punjab Tenancy Act, 1887, the revenue officer shall make with his own hand a brief memorandum of the statements of parties and witnesses at the time when each statement is made.

8. Contents of orders.-In every proceeding in which an order is passed on the merits after inquiry, the revenue officer making the order shall also record a brief statement of the reasons on which it is founded.

9. Appointment and recovery of costs-(i) In proceedings in which costs have been incurred the final order shall apportion the costs of between the parties to the proceeding.

(ii) 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 Land Revenue Act.

10. Execution of order of ejectment etc.-(i) Order 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 a decree whereby a Civil Court has adjudged ejectment from, or delivery of, possession of such property.

(ii) And in the enforcing of these orders a revenue officer shall have all the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree of the description mentioned in sub-section (1).

11. Arbitration.- The provisions of the Punjab Land Revenue Act 1887, with respect to arbitration shall apply to proceedings before a revenue officer in respect of any matter described in the 1st and 2nd groups of section 16 of the Punjab Tenancy Act, 1887.

Language of Revenue Offices and Courts

1[12. **Language of Revenue Courts and Offices.**-The Language of revenue offices and courts before district level shall be Hindi in Devnagri

1As amended by Financial Commissioner's notification No. 145, dated 13th November, 1909, and substituted for rules 12 and 13 by Financial Commissioner's notification No. A.R.I. (IV)-61/3667, dated 30th Oct., 1961, and rule 12 so substituted has further been substituted by Punjab Government Notification No. GSR 193/PA 16/87/5106/62, dated the 28th September, 1962.

shall contain in full the name of the person or Pleader or Mukhtar to appear or act on his behalf and shall be executed by every such person.

(b) Proof of agent's power to act on behalf of his principal --When such appointment or power is not executed by the principal himself but by some person claiming to appoint or give authority on his behalf the Pleader or Mukhtar will not be recognised by the court without proof that such person was duly authorised by the Principal to execute such appointment or power.

¹Applications for Revision

17, Contents of applications for revision.— (i) An application that the Financial Commissioner should exercise the powers conferred by section 84-of the Punjab Tenancy Act, 1887, drawn or supported by an Advocate or Pleader or by a Revenue Agent admitted to practise in the Financial Commissioner's Court shall specify the particular ground on which the aid of the Financial Commissioner's Court is invoked.

(a) If the ground be that the court which decided the case exercises a jurisdiction not vested in it by law, the application shall set out clearly the particular exercise of jurisdiction complained of ;

(b) If it be that the court which decided the case failed to exercise a jurisdiction so vested the jurisdiction which ought in the applicant's opinion, to have, but has not, been exercised, shall be clearly set out ;

(c) If it be that the court acted in the exercise of its jurisdiction with material irregularity the particular irregularity or irregularities complained of shall be similarly set out.

(ii) The clerk of court is hereby authorized to return for amendment within a time to be specified in an order to be recorded by him on the application, any application, not drawn up in conformity with the foregoing reactions.

²[8. A tenant exempted from production of certified copies of revenue records in suits instituted by him under the pre-existing rule 88 inserted by Punjab Government notification No. 8722. R-53/3-Spl., dated 31st December, 1953, shall be similarly exempted from producing such certified copies in appeals, applications for review or revisions filed or to be filed by him from order of decrees passed in such suits. Such copies may be obtained by the court concerned itself.

-----V-----

¹financial Commissioner's notification No. 145, dated 13th November, 1909.

²Substituted by Punjab Government notification No 2439-R-55/1988, dated the 6th July 1955.