



LAND AND PROPERTY RIGHTS IN PAKISTAN

TRAINING MANUAL

LAND AND PROPERTY
R I G H T S
IN PAKISTAN

TRAINING MANUAL

March 2012, Islamabad

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Contents

Abbreviations	i
Preface	ii
Chapter 1: Introduction to Land Administration System	1
Chapter 2: Land Administration System	9
Chapter 3: Basic Record-of-Rights	19
Chapter 4: Sale and Purchase of Property	31
Chapter 5: Inheritance Matters	39
Chapter 6: Making Gifts	49
Chapter 7: Making a Will	61
Chapter 8: How are Property Rights Transferred?	67
Chapter 9: Preemption	79
Chapter 10: Rights and Duties of the Tenants	83
Chapter 11: Easement Rights	99
Chapter 12: Leases	109
Chapter 13: Licenses	119
Chapter 14: Land Reforms	125

Detailed Contents

Abbreviations	i
Preface	ii
Chapter 1: Introduction to Land Administration System	1
1. Definitions	1
2. Property rights in the constitution	2
3. Legal regime about property rights	3
4. Revenue department	4
5. Categories of land	4
6. Land administration system	7
7. Exercises	7
Chapter 2: Land Administration System	9
1. Territorial division	9
2. Functions of revenue officers	11
Chapter 3: Basic Record-of-Rights	19
1. Introduction	19
2. Basic land record documents	20
3. Manual mode	28
4. Remedies	28
5. Exercises	29

Chapter 4: Sale and Purchase of Property	31
1. What does sale-purchase means?	31
2. Do I have the right to sell?	32
3. Who can sell his property?	32
4. What laws govern transfer of property rights?	33
5. How can I sell-purchase property?	33
6. Free will is must	34
7. Shall sale agreement be in writing?	34
8. What shall I do at the time of purchase?	36
9. Remedies	38
10. Exercises	38
Chapter 5: Inheritance Matters	39
1. Introduction	39
2. Who is disentitled to inheritance?	40
3. Categories of legal heirs	42
4. Inheritance laws of non-Muslims	43
5. Laws governing inheritance	43
6. Gifts, Will and Inheritance	44
7. Remedies for claiming inheritance	44
8. Template for issuance of succession certificate	47
9. Exercises	48

Chapter 6: Making Gifts	49
1. Introduction	49
2. Who can make a gift?	50
3. To whom can a gift be made?	50
4. Considerations for making a gift	50
5. Ingredients of a gift	51
6. Do I have the right to gift?	51
7. Gift and free will	51
8. Gift during death illness (Marz-ul-Maut)	51
9. Form of a gift	52
10. Sample form of a gift deed	53
11. Donor's rights after gifting property	54
12. Completion of a gift	54
13. Revocation of a gift	55
14. Formalities in revocation of a gift after delivery of possession	56
15. How is a gift is different from a will?	57
16. Registration of a gift deed	57
17. What precautions shall I take at time of making a gift?	58
18. Remedies	59
19. Exercises	60
Chapter 7: Making a Will	61
1. What is a Will?	61

2. Oral or written Will?	62
3. How much property can be given through a Will?	62
4. Will in favour of a particular legal heir	62
5. Will made on the deathbed	63
6. Wills made by non-Muslims	63
7. Changing or revoking a Will	64
8. Registration of a Will	64
9. What precautions do I need to take while making a Will?	64
10. Remedies	66
11. Exercises	66
Chapter 8: How are Property Rights Transferred?	67
1. Do we have the right to transfer?	67
2. Who can transfer his property?	78
3. What laws govern transfer of property rights?	68
4. What modes of transfer are available to me?	69
5. What are the salient features of the mutation process?	70
6. What if someone wants registration first?	74
7. How to object on a transfer of property?	74
8. Normal dispute resolution procedures	76
9. Remedies	77
10. Exercises	78
Chapter 9: Preemption	79

1. Introduction	79
2. Exclusions from the right of preemption	80
3. Who holds the right of preemption?	80
4. How is the right of preemption exercised?	81
5. Process of exercising right	81
6. Remedies	82
7. Exercises	82

Chapter 10: Rights and Duties of Tenants 83

1. Introduction	83
2. What are the categories of tenants?	84
3. What rights do I have as a tenant?	85
4. What are my duties as a tenant?	89
5. When can a tenant be ejected?	90
6. What safeguards are available to a tenant?	92
7. What forums are available to tenants?	94
8. Exercises	97

Chapter 11: Easement Rights 99

1. Introduction	99
2. What are the kinds of easement?	101
3. Who can impose a right of easement?	101
4. Who can acquire a right of easement?	101

5. Modes of acquisition of easement	102
6. Which law governs the rights of easement?	102
7. Can I transfer my right of easement?	102
8. How is a right of easement to be enjoyed?	103
9. How does a right of easement become extinct?	104
10. How to protect my easement right?	106
11. What can I do if my easement is disturbed?	106
12. Remedy	107
13. Exercises	108

Chapter 12: Leases 109

1. What is a lease?	109
2. Leases in rural areas	110
3. Leases in urban areas	110
4. How is a lease made in urban areas?	111
5. What should be included in a tenancy agreement?	111
6. When and how is rent to be paid?	112
7. What are the consequences of not complying with rent laws?	112
8. Who is the adjudicating authority in rent matters?	113
9. Other agreements and tenancy	113
10. Can a tenant sub-let or transfer his/her rights in property?	113
11. Obligations of a landlord	113
12. Duties of a tenant	114

13. On what grounds can a tenant be evicted?	115
14. What should I do if a landlord refuses to accept rent?	115
15. What should I do if a landlord files a petition for eviction?	116
16. Exercises	117

Chapter 13: Licenses 119

1. What is a license?	119
2. License under the easement act	120
3. How is a license granted?	120
4. How should I treat the licensed property?	120
5. Can I transfer my rights under license?	120
6. When and how may a license be revoked?	121
7. What is the difference between a lease and a license?	122
8. Remedies	123
9. Exercises	123

Chapter 14: Land Reforms 125

1. Introduction	125
2. Land Reforms, 1959	126
3. Land Reforms, 1972	127
4. Land Reforms, 1977	128
5. The Qazalbash Waqf Case	128
6. Who is entitled to resumed land?	129

Chapter 15: Acquisition of Land by the State	133
1. Introduction	133
2. Property can be acquired for public purpose	134
3. Applicable laws	134
4. How is land acquisition done?	135
5. How are objections to acquisition decided?	136
6. Remedy if grievances are not addressed	140
7. How shall I assess my compensation?	142
8. Remedies	143
9. Exercises	143
Chapter 16: Property Rights of Women	145
1. Introduction	145
2. What is Dower/Mehr?’	147
3. 'Dowry' or 'Jahiz'	149
4. Bridal gifts	151
5. Women's rights of inheritance	151
6. Will	153
7. Gift-Hiba	154
8. Tenancy rights of women	154
9. Lease of state land	155
10. Record of rights	155
11. Grant of land to women under land reforms	156

Abbreviations

AC	Assistant Commissioner
AJK	Azad Jammu & Kashmir
BOR	Board of Revenue
CDA	Capital Development Authority
CNIC	Computerized National Identity Card
DC	Deputy Commissioner
DCO	District Coordination Officer
DDO	District Disbursement Officer
DDO-R	Deputy District Officer Revenue
DG	Director General
EDO-R	Executive District Officer Revenue
FATA	Federally Administered Tribal Areas
FSC	Federal Shariat Court
GoP	Government of Pakistan
KPK	Khyber Pakhtunkhwa
MBR	Member Board of Revenue
NWFP	North West Frontier Province
PDMA	Provincial Disaster Management Authority
PIU	Produce Index Unit
PLD	Pakistan Legal Decisions
PTD	Permanent Transfer Deeds
PTO	Provisional Transfer Orders
RO	Revenue Officer

Preface

This Manual is an introduction to some of the principal concepts and institutions relating to the land administration system in Pakistan. It also highlights the basic problems that arise from the operation of this system and how a common man can find the solutions to land related issues. It has been designed for use by the common man, may it be a land owner or tenant, Government employees and civil society organizations engaged in service of the people or any person or organization that needs some basic information about the general aspects of the functioning of the rural land administration system in Pakistan.

This manual very briefly explains the land administration system in settled areas¹, types of property ownerships, transfer and sale procedures of property rights, acquisition of property by the state, rights and duties of tenants and landlords, leases and licenses, easement rights, property rights of women etc. The manual helps the stakeholders to understand the mechanics of the system and the particular problem that is being faced and then to find its simple and cost effective solution. It may not be a useful treatise for an academician or for a person who is in search of an answer to a particular technical question of law and fact for which he/she would require the services of a legal expert.

¹ Most of the areas in Pakistan have been subject to the settlement operation in which the land holdings have been consolidated, demarcated in various units (acres), soil classified and land revenue assessed. Some areas

CHAPTER 1

Introduction to Land Administration System

1. Definitions

- a. The terms 'land' and 'property' are often used interchangeably to convey the same meaning; however, a distinction is drawn between 'moveable' and 'immovable' property in various laws of Pakistan. The same distinction exists, but under different names, in many other legal traditions such as 'real' property and 'chattels' in the common law of the United Kingdom.

'Immovable property' includes:

- ✓ Land, buildings;
- ✓ Benefits to arise out of land and things attached to the earth, or permanently fastened to anything attached to the

² Section 2 of the Registration Act 1908 and section 3 of the General Clauses Act, 1897.

earth;

- ✓ Hereditary allowances;
- ✓ Rights to ways, lights, ferries and fisheries;

However 'immovable property' does not include:

- ✓ Standing timber, growing crops or grass;
- ✓ Fruit upon and juice in trees, whether in existence or to grow in the future; and

- c. 'Moveable property' is defined with reference to immovable

'Moveable property' means property of every description except immovable property³. It means that all other property that is not immovable property is included in the concept of moveable property. Standing timber, growing crops or grass, fruit upon and juice in trees whether in existence or to grow in the future and machinery embedded in or attached to the earth are also

- d. Legal concepts governing moveable and immovable property are somewhat distinct and distinguishable from one another; so what may be true of moveable property may not be applicable on

2. Property rights in the constitution

- a. Property rights are guaranteed under the Constitution of Pakistan, 1973, as well as under many special laws that deal with various types of property and various aspects of property rights.

³ Section 2 of the Registration Act, 1908 and section 3 of the General Clauses Act, 1897.

- b. Particularly, Articles 23, 24, 172 and 173 of the Constitution of the Islamic Republic of Pakistan deal directly with private property

Article 23 declares that:

'Every citizen shall have the right to acquire, hold and dispose off property in any part of Pakistan, subject to the Constitution and

- c. In other words, every person in Pakistan can purchase property, keep property in his/her name and can sell and gift it to anyone he/she likes. This right is available everywhere in Pakistan.
- d. This right to property is abridged by only two limitations:
 - i. The Constitution can put any limit on this right as article 24 has allowed the state to compulsorily acquire property from citizens.
 - ii. Law can restrict this right but the law has to be reasonable and it shall be only in public interest otherwise this law will be against this constitutional guarantee and, therefore, it shall be null and void under Article 8 of the Constitution.
- e. Article 24 makes one exception in the right to property and it

Article 24:

'No property shall be compulsorily acquired or taken possession of, save for a public purpose, and save by the authority of law which provides for compensation therefore and either fixes the amount of compensation or specifies the principles on and the

- f. Similarly, there are certain provisions in the Constitution that deal with property rights of the state. Article 172 states that any property, which has no rightful owner, shall vest in the Government of that province if located in a province, and in every other case, the Federal Government shall own it. It simply means that if a private person does not own a property, then it shall be owned either by the Provincial Government or the Federal Government.
- g. Right of the state to own property extends beyond its normal territory. All lands, minerals and other things of value within the continental shelf or the underlying ocean, beyond the territorial waters of Pakistan shall vest in the Federal Government. Mineral oil and natural gas within the province or the territorial waters adjacent thereto shall vest jointly in equal proportions in that province and the Federal Government.
- h. Article 173 of the Constitution allows the Federal Government and the Provincial Governments to grant, sell, dispose or mortgage any property that vests in them. These governments can purchase or

3. Legal regime about property rights

There are various laws that regulate the entitlement, ownership, sale, transfer, acquisition, taxation, registration, tenancy etc. of immovable

- ✓ The Transfer of Property Act, 1882;
- ✓ The Punjab Tenancy Act, 1887;
- ✓ The Land Acquisition Act, 1894;
- ✓ The Registration Act, 1908;

- ✓ The Colonization of Government Lands Act, 1912;
- ✓ The Sindh Tenancy Act, 1950;
- ✓ The Khyber Pakhtunkhwa Tenancy Act, 1950;
- ✓ The Provincial Land Revenue Act, 1967;
- ✓ The Baluchistan Tenancy Ordinance, 1978;
- ✓ The Land Record Manual;

4. Revenue department

- a. Pakistan is predominantly an agricultural economy with a majority of the rural population having specific property interests. Land administration started in this part of the world for collection of state revenue on land and agriculture. Therefore, in Pakistan, the department that deals with the administration of agricultural land is called the "Revenue" Department.
- b. The Revenue Department also issues instructions and policy

5. Categories of land

All land in Pakistan can be divided into three basic categories:

Categories of land in terms of ownership are:

- ✓ Privately owned land;
- ✓ Village common land; and

a. Privately owned land

- i. Citizens own most of the land in Pakistan. Private owners have full rights to sell, gift, exchange or dispose off their private land in any manner they wish, subject to some legal limitations. For instance, the law of Will, Gift and Preemption⁴ imposes certain restrictions. The Constitution and laws give equal rights of ownership, tenancy, and sale and purchase of land to men and women.
- ii. The owners of farmlands generally use their land for agriculture and animal breeding. Farmlands may be self-cultivated (khud kaasht) or cultivated through tenants who pay agreed rent to the owner either in cash or in kind. Though some owners of land get the land cultivated through servants or seasonal labour, it remains in the category of self-cultivated land.
- iii. Privately owned property is subject to automatic inheritance under personal laws and property rights devolve after the death of a legal owner on his/her legal heirs as per pre-determined

b. Village common land

- i. Village common land is called 'Shamilat' or 'Shamilat Deh'. The most appropriate translation of Shamilat in the English language can be "Common Land" or "Community Land". Common land may be used for purposes such as graveyards, community buildings, mosques, schools, dispensaries, playgrounds, village ponds, village roads, grazing grounds, firewood collection,

⁴ Preemption allows a third party to intervene, in certain circumstances, and claim a right of first refusal in the event when land in a rural area is sold. The circumstances in which preemption is allowed are few and mostly close neighbors have the right to preemption.

c. State owned land

Some lands in Pakistan are called 'State owned' or "Crown" land (Sarkaari zameen). It means that its ownership or legal entitlement belongs to the government. The government may be federal,

6. Land administration system

- a. The history of the land revenue system in Pakistan goes back to Sultan Ala-uddin Khilji (1255 – 1316)⁵, who was the first ruler to introduce a system of land administration in Indo-Pak Sub-Continent. Mughal Emperor Akbar's minister for revenue affairs, Todar Mal (d. 1659)⁶ is rightly credited for laying down the basic foundations of the land administration system which is now prevalent in South Asia.
- b. The British colonialists improved and formalized the system by introducing legislations pertaining to the rights and responsibilities of owners of land vis-à-vis the State, the relationship between land owners and their tenants, rights and responsibilities of various categories of tenants, a system of adjudication of disputes in matters pertaining to land and also set out in detail powers and duties of the various categories of Revenue Officers. They also appointed revenue officials such as

⁵ The Muslim ruler who ruled Indo-Pak Sub-continent from 1296 to 1316.

⁶ Raja Todar Mal, Finance Minister in the cabinet of Mughal Emperor, Akbar.

⁷ Normally called 'Deputy Commissioner' and 'District Magistrate' appointed under the Land Revenue Act and

7. Exercises

- a. What is the difference between 'land' and 'property'?
- b. How can we distinguish between 'moveable' and 'immovable' property?
- c. Are my property rights protected? If yes, under what legal regime?

CHAPTER 2

Land Administration System

The land administration system can be discussed in terms of:

- i. Territorial division; and

1. Territorial division

- a. Land and property matters are generally administered by the Revenue Department under the control and guidance of the respective Provincial Government. The Federal Government has no land administration machinery and even the land owned by the Federal Government is handled by the Revenue Department of the respective province.
- b. For administrative purposes, Pakistan is divided into (i) the four

provinces (ii) Islamabad Capital Territory (iii) Federally Administered Tribal Areas, and (iv) the Provincially Administered Tribal Areas⁸. At a provincial level, the Board of Revenue (BoR) looks after the entire land administration. Each province is divided into Divisions⁹. For example, Punjab is divided into nine revenue divisions such as the Multan Division, Lahore Division etc. The Provincial Government appoints the Commissioner who is the head of the Division. Commissioners are senior civil servants normally belonging to the District Management Group of the Civil Service of Pakistan (Federal or from the Provincial Civil Service).

- c. Each division is administratively divided into many Districts and the number of districts in each division varies, approximately from three to six. A district is headed by a Deputy Commissioner or District Coordination Officer¹⁰ who is appointed by the Provincial Government. The Deputy Commissioner is usually a mid-ranking civil servant. In a province, a district is the basic unit of the administration, in matters of revenue or otherwise.
- d. Each District is sub-divided into Tehsils or Talukas. Each District has approximately three to five Tehsils or Talukas. The Assistant Commissioner, Deputy District Officer (Revenue) Tehsildaar/ Mukhtiarkar is the head of the revenue administration of each Tehsil/Taluka¹¹.
- e. Each Tehsil/Taluka is further sub-divided into a member of

⁸ Article 1 of the Constitution.

⁹ Before the devolution system was introduced in 2001, the Revenue Divisions were in all the provinces. The devolution system, introduced by President General Pervez Musharraf (1999-2008), abolished Revenue Divisions but now some provinces have resurrected the Revenue Divisions while some are in the process of resurrection.

¹⁰ In the pre-devolution era, the Deputy Commissioner who was also the District Magistrate headed the district but devolution changed it and replaced it with the District Coordination Officer. The devolution system is again in flux and some provinces have reverted to the Deputy Commissioner and some are still in the transition process.

¹¹ Some provinces have one more category i.e. subdivision that may consist of one or more Tehsils. In such areas, the Subdivision is headed by the Assistant Commissioner/Deputy District Officer (Revenue) while the

Mauzaas (Revenue estate/Mahaal or village). The basic unit of land administration is a village (Mauzaa). A village or a group of villages form a Patwar Circle is headed by a Patwari (or Tapedar in Sindh) who is the most basic and primary official of the revenue department.

- f. In some areas, by combining a group of Patwar Circles a new unit is made called a Girdawar Circle that is headed by a Qanoongo (Supervisory Tapedaar in Sindh).
- g. Sometimes, two to three Girdawar Circles constitute a Revenue

2. Functions of revenue officers

Every person or relief agency has to interact in one way or the other with revenue officials. It is therefore, in the fitness of things, to briefly discuss the basic functions and duties of some of the revenue officials.

Basic revenue officers/offices are:

- ✓ Patwari or Tapedaar;
- ✓ Qanoongo, Girdawar or Supervisory Tapedaar;
- ✓ Tehsildaar or Mukhtiarkar¹²;
- ✓ Assistant Commissioner or Deputy District Officer (Revenue);
- ✓ Deputy Commissioner or District Officer (Revenue)
- ✓ Commissioner; and

¹² In Sindh, a Tehsildar is called a Mukhtiarkar.

a. Patwari or Tapedar¹³

- i. A Patwari is the lowest official in the revenue hierarchy but the functions performed by the Patwari make him the most important person in land administration.
- ii. A Patwari is appointed and transferred by the Assistant Commissioner (in most of the areas) or Deputy Commissioner (in some areas) by whatever nomenclature they are called.
- iii. A Patwari has a big "Basta" (bag) to maintain all land revenue

Patwari:

- ✓ Is custodian of all the records of land rights of the people;
- ✓ Records all changes of ownership and tenancy in the relevant registers of land record;
- ✓ Is a crop reporter who carries out harvest inspection of every field;
- ✓ Is a custodian of state property, located in a village and reports on any encroachment on state land and public roads.
- ✓ Is the village official to report on all-important happenings in the area such as floods, rains, calamities, infectious diseases etc.;
- ✓ Keeps the particulars of landowners and tenants up to date;
- ✓ Supplies copies of revenue records to the public;

¹³ A Patwari is called Tapedaar in Sindh whereas in the other three provinces and FATA, he is called a Patwari.

- ✓ Handles the sale and purchase or creation of lien or charge or loan on any property;
- ✓ Is directly involved in the process of acquisition of private land by the state for any public purpose such as construction of schools, motorways etc.;
- ✓ Assists higher officials in the allotment of resumed land to tenants under land reforms schemes;
- ✓ Is the basic official in relief efforts, as he facilitates the disbursement of disaster related relief;
- ✓ Collects land related taxes and other taxes such as loans on

b. **Qanoongo/Girdawar**¹⁴

A Girdawar is appointed and transferred by the Assistant Commissioner or Deputy Commissioner, by whatever nomenclature

The basic functions of a Qanoongo/Girdawar include:

- ✓ Periodical and yearly record maintained by the Patwari is inspected by the Girdawar;
- ✓ He is supposed to carry out 100% check of the cultivation inspection record (Khasra Girdawari);
- ✓ All entries made in the revenue record are attested by him; and

¹⁴ The terms 'Qanoongo' and 'Girdaawar' are used interchangeably and he called the Supervisory Tapedaar in Sindh.

c. Tehsildar or Mukhtiarkar

- i. A Tehsildar is the officer in-charge of a Tehsil set-up and supervises all functions of the subordinate revenue officials such as the Patwaari, Qanoongo and Naib-Tehsildar, and guides them and provides them with leadership in their revenue functions.
- ii. A Tehsildar is a very important functionary of the land administration system as the primary unit of this administration is the Tehsil.
- iii. He is assisted by the Naib-Tehsildar (Deputy Tehsildar) or Naib-Mukhtiarkaar.
- iv. A Tehsildar is an Assistant Collector, Grade I or an Assistant Collector, Grade II under the Land Revenue Act, 1967.
- v. A Tehsildar belongs to the Provincial Revenue Service and is

Tehsildar:

- ✓ Co-ordinates all functions of the Patwaris and Qanoongos;
- ✓ Makes sure that land records are correct and updated;
- ✓ Collects land revenue and other taxes for the state;
- ✓ Sanctions and mutates sales and purchases of land;
- ✓ Recommends all taxes assessed by the Patwaari;
- ✓ Works as Revenue Court; and

d. Assistant Commissioner or Deputy District Officer (Revenue)¹⁵

- i. A Deputy District Officer (Revenue) (DDO-R) or Assistant Commissioner (AC) is the head of a sub-division. In some provinces (e.g. Punjab), there is no difference between a sub-division and a Tehsil whereas in some provinces (e.g. Sindh), there are more than one Tehsils in a sub-division. A Tehsildar heads each Tehsil administration whereas each sub-division is head by the Assistant Commissioner or Deputy District Officer (Revenue). If a Tehsil is a sub-division also, then it will be headed by the Assistant Commissioner or Deputy District Officer (Revenue) and under him will be a Tehsildar. The AC or DDO-R is either from the

AC or DDO-R:

- ✓ Is the chief representative of the Provincial Government in the area;
- ✓ Supervises all works of the revenue administration;
- ✓ Is in-charge of relief work;
- ✓ Exercises powers of an Assistant Collector, Grade I or a Collector; and

e. Deputy Commissioner or District Officer (Revenue)

- i. The office of the Deputy Commissioner (DC) was introduced by the British during the colonial period in the mid 19th century but was replaced under the Devolution Plan in 2001 by the District Co-ordination Officer (DCO).

¹⁵ In the pre-devolution era, the nomenclature was the 'Assistant Commissioner' but it was changed to the Deputy District Officer (Revenue) under the Devolution Plan introduced in 2001.

- ii. The system is again under transformation. Some provinces have gone back to the old system while some are still in the process of transition.
- iii. The DCO though generally is the head of a District, he/she does not have any revenue powers that are divested from him/her and instead vested in a new office called the District Officer (revenue) (DO-R).
- iv. DC or DO-R is either from the Provincial or the Federal Civil Service seconded to the respective Provincial Governments and posted in

DC or DO-R:

- ✓ Is the District Collector (Revenue);
- ✓ Is the head of land administration; and
- ✓ Has many original, appellate and revisional powers against lower revenue officers.

DC or DCO is:

- ✓ The chief representative of the Provincial Government; and

f. Commissioner/EDO-R

- i. The office of the Commissioner was introduced by the Britishers in the 19th century and it continued till 2001 when the devolution system was introduced and divisions were abolished.
- ii. Some provinces have re-introduced the office of the Commissioner whereas some are still in the process of transformation.

- iii. After devolution, the revenue powers of a Commissioner were conferred upon the Executive Officer (Revenue) (EDO-R) who though was a district officer, had the revenue powers of the Commissioner but had no other administrative powers which were enjoyed by the Commissioner.

Commissioner:

- ✓ Is head of the revenue administration in a Division;
- ✓ Exercises the powers and functions of supervision and control of subordinate revenue authorities;
- ✓ Acts as appellate and revisional court;
- ✓ Is chief representative of the government in a Division; and

g. Board of Revenue

- i. The Board of Revenue (BoR) is a statutory body that consists of many members and is headed by Senior Member, Board of Revenue (SMBR).
- ii. Members of the Board of Revenue also act as Secretaries to the government in their respective department e.g. a Member Colonies is Secretary to the Provincial Government on colony matters (land allotment) and a Member Relief is the Secretary to

Board of Revenue:

- ✓ Is at the apex of the land administration system in a province;

- ✓ Leads the land administration system in a province;
- ✓ Advises the Provincial Government on policies related to land revenue, consolidation of holdings, land management, land reforms, settlement and rehabilitation, land taxation, allotment of lands, land acquisition etc.;
- ✓ Acts as Provincial Relief Commissioner Office: Provincial Governments, in an emergency such as floods and earthquakes, distributes relief goods through it. Now some of its functions are transferred to the Provincial Disaster Management Authorities;
- ✓ Is the highest Revenue Court in a province; and

CHAPTER 3

Basic Record-of-Rights

1. Introduction

- a. The government has a first charge (tax) on the produce from any piece of land. Therefore, an accurate record-of-rights is essential for the assessment of land revenue and its collection by the government. Furthermore, a correct record of rights is also necessitated to protect individual rights in property i.e. how much a person owns in which area.
- b. The system of record-of-rights in Pakistan comprises of:
 - i. 'Standing Records' that are once made and are permanent but are updated after a specified period of time; and
 - ii. 'Periodical Records' which contain some information with respect to an estate and is changed periodically.

- ✓ Land owners, tenants, or in an estate, persons entitled to receive rents, profits, or produce of the estate or to occupy land therein;
- ✓ Nature and the extent of interest of concerned persons, and conditions attached to their rights as owners or tenants;
- ✓ Rent, land revenue, rates, cesses etc. receivable from and payable to each concerned person and to the Government;
- ✓ Wajib-ul-arz i.e. statement of customs, affecting rights or liabilities of owners and tenants, with respect to rights and liabilities in a revenue estate;
- ✓ Map of the Revenue estate;
- ✓ Shajra Kishtawar/Field Map;
- ✓ Shajra Nasab/Genealogical Tree;
- ✓ Rights in wells or rights in irrigation from other sources, if any;
- ✓ Determination of revenue assessment as per the Settlement Officer's orders; and

2. Basic land record documents

The most important documents of land records with which a common citizen is more concerned are the following:

a. **Register Haqdarar Zamin (Land Owners Register)**

- i. The Register Haqdarar Zamin was earlier known as the Jammabandi Register. It is the most important document of record-of-rights in the rural areas. It shows the owners of the lands, including details of the cultivator, tenant, soil and rent.

- ii. It is prepared or updated every four years for incorporating all mutations (Intiqal) that have taken place since the last register was prepared from the previous Haqdaran Zamin (land owners) register.
- iii. A Jamabandi is a register showing holdings of owners and tenants, showing their respective fields, payable revenue and the rent payable by tenants.
- iv. Jamabandi also contains the following particulars of owners and tenants:
 - (1) For Owner: father's name, tribe or caste, 'Got' or sub-tribe, if any, and residence;
 - (2) For tenant/cultivator: the father's name, tribe or caste, 'Got' or sub-tribe, if any, residence and status.

b. Field Map

- i. It is a cadastral map of a village and is called the 'Mussavi'.
- ii. It shows all fields, duly measured and numbered in a revenue estate/village. This is basically a surveyed paper map at different scales, depending upon the village area.
- iii. The traditional yardstick for measuring a land field is called a 'Karam' which is 5.5 feet in length and a 'Marla' which is 272 square feet. There are 20 marlas in one 'Kanal' and there are 8 kanals in one 'Acre'.
- iv. Each land parcel is given a 'Khasra Number' (parcel identification number) and the dimension of each side.

- v. Each Khasra Number is normally owned by one owner but in some areas, especially where the settlement operation has not taken place, there are more than one owner in one Khasra number.
 - vi. A Mussavi is prepared at the time of settlement.
- c. **Shajra Kishtwar**
- i. All Mussavis of a village are drawn up conjointly on a cotton cloth (Lattha) for day-to-day use by the Patwari, which is called the Shajra Kishtwar.
- d. **Register of Mutations (Register Inteqalaat)**
- i. It contains the particulars of all sales and purchases, gifts etc. transactions, etc. that are entered by the Patwari and decided by the Revenue Officer.
- e. **Lal Kitab (Red Book-Village Note Book)**
- i. This book has all the relevant details about the vital statistics of village lands e.g. the total area, area sown, assessment of land revenue/taxes/fee, number of entered and attested mutations, notes about changes in cultivation, tenancies, and ownership during the last four years.
 - ii. It also shows the population of a revenue estate/village and also gives the approximate number of livestock.
 - iii. It is essentially a statistical book of a village.
 - iv. It is called the 'Red Book' as it has a red cover.
- f. **Roznamcha Waqiyati**

- i. The Patwari keeps a register called the 'Roznamcha Waqiyati' or the Daily Diary of Events.
- ii. The Patwari is bound to record all notable happenings about land affairs in this diary. For instance, hailstorms, floods, severe rains, reports of all transactions of land, mutations, sales, gifts, elections, encroachments on state land, tours conducted by various revenue officers etc. are recorded in it.

g. **Register Khasra Girdawari**

- i. In every harvest season, the local Patwari makes a survey in his Patwar Circle and it is called a Girdawari.
- ii. The objective of a Girdawari is to collect all information about the cropped area under different crops sown by farmers in a Patwar Circle.
- iii. The Girdawari collects information about the date on which inspection of each harvest has begun, the kind of soil (Qism Zamin), type of crop (Jins) sown, and area sown (Raqba Kashta) with reference to each Khasra number (parcel identification number).
- iv. This register contains all details of the Girdawari/inspection of

A Khara Girdawari contains information about:

- ✓ Which crop is being grown in which field or piece of land?
- ✓ Who is the tenant or cultivator of a particular piece of land?
- ✓ Any change in possession of a particular piece of land; and

- h. When a person is a tenant on a piece of land in a village but his/her name has not been entered as a tenant, he/she shall file an application to the Patwari of the village or the Tehsildar for noting his/her tenancy in the Khasra Girdawari and then in the Jamabandi. Sample application for recording tenancy addressed to

Patwari
Mouza Basti Allah Yar
Tehsil Sheikhpura
District Sheikhpura

1 January 2012

Subject: Recording of Tenancy

Dear Sir

- I, Chaudary Karam ud Din, son of Saleem ud Din, caste Arain, am a tenant in a land measuring 10 acres, situated at khasra numbers 1234 to 1236 from early this year, but my name has not been entered as a tenant.
- The change in tenancy was earlier brought to your knowledge at the time of the second Harvest Inspection on 1 October, 2010 when you inspected the site but still a change was not been made in the records to my detriment.
- You are requested to insert applicant's name in Khasra Girdawari and effect a subsequent change in Jamabandi to protect my legal rights.

Yours truly,

Signature

- i. Similarly, a person who buys a piece of land in a village has to file an application to the Patwari of village or concerned Tehsildar for noting the change of ownership in the Khasra Girdawari and the Jamabandi, if there is no mutation.

Tehsildaar/Patwari,
Mouza Basti Zafar Yar,
Tehsil Pariiabaad,
District Hashtnagar

Subject: Recording of Change of Ownership/Possession

- I, Chaudary Raheem ud Din, son of Saleem ud Din, caste Arain, have purchased land measuring 10 acres situated at khasra numbers 1234 to 1236 from Fazal Husain, son of Shabir Husain, by executing a sale deed on 25 September, 2011.
- The change in ownership and possession was earlier brought to your knowledge at the time of the second Harvest Inspection on 1st October, 2010.
- You are requested to insert the applicant's name in the Khasra Girdawari and effect a change in the Jamabandi.
- Copy of the registered Sale Deed is attached.

Yours truly,
Chaudary Raheem ud Din

- j. Additionally, the applicant may send a copy of the application to the Union Council of the area where the particular land is situated and to the concerned Revenue Officer through registered post/acknowledgement due.
- k. **Fard Malkiyat (Ownership Document)**
 - i. This document shows ownership of land; hence, it is called the "Fard Malkiyat" but it is generally referred to as 'Fard'.
 - ii. It is prepared from the Haqdarar Zamin (Jamabandi) Register and it incorporates changes made through mutation (intiqal). It is essentially just a copy of a particular part of the Haqdarar Zamin Register.
 - iii. Every owner wants it and needs it as a proof of his/her ownership. This Fard is needed as a proof for ownership or when someone wants to alienate land through a sale or a gift etc. For this purpose, the owner or the possible purchaser has to get a Fard from the local Patwari.
 - iv. The Patwari on payment of a nominal prescribed fee prepares it. The fee varies from area to area, but it is always only a few rupees and not in hundreds of rupees.
- l. The record-of-rights is updated after such time as prescribed by the Board of Revenue usually after every 4 years. This is called a

Patwari
Mouza Basti Chawan
Tehsil Kabirwala
District Khanewal

1 December, 2011

Subject: Provision of Fard

- I am an owner of a land measuring 2 acres, situated in Mauza Chawan in your area.
- I need a copy of FARD of my land for my record.
- You are requested to kindly grant me a FARD of my land along with entries of any loan or encumbrance on it, if any.

Yours truly,
Signature

.....

Malik Sajjad Ahmad
S/o Raheem Gul

3. Manual mode

- a. All records of land in Pakistan are prepared and maintained manually by the revenue officers especially the Patwari and these are checked and verified by the Tehsildar. Only a few land record documents are authenticated at the level of a Collector.
- b. In the province of Punjab, there is an ongoing project to computerize the record-of-rights but it is only applicable in few selected areas and is still at a preliminary stage. If land record is digitized then it will make the land management system more

4. Remedies

- a. If any person has a grievance or complaint about any matter, in terms of land record, he/she has many forums for the redressal of his/her complaint.
- b. The nature of the complaint determines the forum. For example, if there is a problem in the registration of tenancy, the complainant can apply to the Tehsildar.
- c. An appeal against the judgement of the Tehsildar lies before the Assistant Commissioner/Deputy District Officer (Revenue).
- d. Some appeals and revisions also lie before the Executive District Officer (Revenue) or the Commissioner.
- e. The Board of Revenue is the last decision making authority in the hierarchy.
- f. If a matter involves intricate questions of law or facts, then the matter can be agitated before a local Civil Court through a civil suit.

5. Exercises

- a. Why are land records prepared?
- b. Who prepares land records?
- c. A Register Haqdaraan Zameen is the most important document in land administration. Explain this statement with examples.
- d. What is the difference between a shajra kishtwar and a shajra nasab?
- e. How can errors in records of rights be corrected?
- f. The Patwari has not entered my name as a tenant. How can I redress my grievance?

CHAPTER 4

Sale and Purchase of Property

1. What does sale-purchase mean?

- a. 'Sale of a property' means to give away a right in a property absolutely and 'Purchase of a property' means to get a right in a property. 'Sale and Purchase' is the most common mode of acquisition of rights to give away and to get a property.
- b. A sale may be made through a transaction between private individuals, companies or public bodies.
- c. A sale can be unconditional or conditional. In a conditional sale, an owner can attach certain conditions with the property at the time of the sale. For example, Akbar while selling a historical building can attach a condition that the purchaser cannot demolish this building or cannot convert it into a club etc. In this sale, the purchaser, Fazal, cannot demolish this building or convert it as per the condition applied.

- d. Apart from an outright sale agreement, a sale may include an allocation of property by a public authority to a person through

2. Do I have the right to sell?

- a. The 'right to sell' my ownership of a property is my fundamental and constitutional property right.

- ✓ Every owner of a property has a fundamental right to sell his/her right in a property;
- ✓ A sale can be affected through a valid and legal sale agreement or agreement to sell;
- ✓ A sale of my right will extinguish my right of ownership and the purchaser will become the owner of it;
- ✓ A sale may be out of the free will of an owner or through an order of a competent authority e.g. Ali is adjudged insolvent and the court orders the sale of his property to pay off his debts and

3. Who can sell his/her property?

- a. Every adult (major) person can sell his/her rights in a property. In Pakistan, the age of 'majority' is eighteen years and above.
- b. Every child (minor), who is under eighteen years of age, cannot sell his/her property. The child can sell his/her rights through his/her legal guardian, duly appointed by a court of competent jurisdiction i.e. the Guardian Court. The guardian shall have the express powers of sale from the court otherwise he/she cannot sell the property of the child.
- c. A natural guardian like a father or mother cannot sell the property of a child. A natural guardian can only sell the property of a child if he/she is appointed a legal guardian by the Guardian Court and

the Court has given him/her express permission to transfer the rights of the child.

- d. No insane person can sell his/her property. When the owner of the property is an insane person, then only the legal guardian, duly

4. What laws govern transfer of property rights?

The following laws govern the sale and sale procedures:

- ✓ The Contract Act, 1872;
- ✓ The Transfer of Property Act, 1882. It is a general law describing concepts, principles of property and regulating the sale of interests in property;
- ✓ The Land Revenue Act, 1967. This is the basic law dealing with the records-of-rights in property and it authorizes mutations;
- ✓ The Registration Act, 1908. This law is applicable on the registration of sale deeds; and
- ✓ The local and special laws i.e. laws of the Cantonment Boards, local governments, private housing societies, cooperative

5. How can I sell-purchase property?

A private sale agreement has to conform to four basic constituent elements of an ordinary agreement/contract, initiated by a:

'A' offers to sell his/her ancestral land situated in Mauza Bharakahu, Islamabad to 'B'. The identity of the land is made

- b. Unconditional acceptance by the other party to purchase the property.

'B' accepts unconditionally 'A's' offer and agrees to buy his/her land.

- c. Valid intention to sell and purchase the said property. 'A' and 'B' shall have proper intention to sell and purchase the concerned property and the offer and acceptance shall not be a joke between friends.
- d. Payment of the agreed consideration, normally called the price.

'A' puts a price of Rs. 1 million for the property, which is accepted or paid by 'B'. This payment of consideration concludes the sale

6. Free will is must

The sale and purchase agreement must be negotiated and executed freely, without any threat, fear, inducement, coercion etc.

'B' forces 'A' by threatening him/her to sell him/her his/her property for Rs. 1 million or induces him/her by cheating or fraud. Even if consideration is paid, this will not be a valid sale contract. It

7. Shall sale agreement be in writing?

- a. Under the laws of Pakistan, a verbal or an oral sale agreement is valid.
- b. A written sale agreement is much better and it shall be preferred.
- c. It is much better and safer if the sale agreement is reduced to writing.
- d. It is advisable to reduce it into writing in the presence of two

16 Sections 3-9 Contract Act 1872.

witnesses who should sign it.

- e. It is advisable to get the written document registered with the Registrar or at least with a Notary Public who is usually available in the court area.
- f. If the parties do not prefer registration, then they shall approach the revenue authorities for mutation.

Sale Agreement

This Agreement is made at Islamabad on 23-11-2000, for the sale of a land measuring 1 kanal, situated at Plot No. 123, Street 21, Sector F/6 1, Islamabad and is entered into by and between A and B.

1. A s/o.....r/o.....has agreed to sell and B..s/o....r/o..... has agreed to buy the above-mentioned property for a sum of Rs. 1 million.
2. B has given Rs. 1 million to A as consideration for the above mentioned property.
3. A has handed over physical possession of the above-mentioned property to B.
4. A and B have freely negotiated this sale agreement without any threat, fraud, coercion etc.
5. Both the parties have valid intention to sell and purchase the said property.
6. A assures that he/she is the sole owner of the above mentioned property and that the property is not subject to any charge, lien etc. nor any taxes are outstanding against it, as on the date of this Agreement.

In witness whereof the parties have signed this Agreement of sale.

8. What shall I do at the time of purchase?

- a. I shall ask the seller to provide me the proof of his/her ownership of the property that is proposed to be sold.
- b. I shall check the correctness and authenticity of the ownership documents from the relevant revenue authorities and the Registrar office.
- c. I shall ascertain that there is no issue of preemption.
- d. Let me ascertain that the property to be sold is owned, individually or jointly, by more than one person. If it is jointly owned, then I have to be sure whether all legal owners are selling the property or only one individual is selling. If only one person is selling, then I have to be sure that he/she has the full legal authority to sell.
- e. If only person is selling his/her share of property, then I have to be sure that the property is already divided amongst the owners and it is already demarcated and there will not be any problem in taking possession from the seller.
- f. Let me check whether the property being sold falls within shamilat as, in some areas of Pakistan, there are no proper settlements done and there are many owners in one khasra number. In this case, it is very likely that there will be a dispute about possession. In such cases, it has to be carefully ascertained that the property has been identified separately in shamilat and there will not be any problem in taking over possession of the property.
- g. I shall check that the property is not under any litigation or a court stay order is not in field to prohibit the sale.

- h. It is advisable to give an advertisement in the press about the intention of the purchase of the property and objections shall be invited within a stipulated time (generally 15 days) before finalizing the sale agreement.
- i. The property shall physically be inspected to check that (i) it exists there; (ii) there will be no issue in possession; (iii) there is no problem in right of way; (iv) local people and relatives of the owner do not have any problem in terms of preemption or any other claim etc.
- j. The seller may be asked to allow the purchaser to put up a board on the site indicating purchase of the rights and he/she may also be asked to put up a boundary wall around the property as the construction of the boundary wall or putting up the board on the site will alert interested and they can raise their concerns well in time. These things will help in any subsequent litigation especially for those places where there is likelihood of any dispute.
- k. If an attorney is negotiating the sale agreement, I shall check whether the attorney is valid and subsisting as power of attorney can be withdrawn or it can expire.
- l. Immediately after sale negotiations, the sale agreement shall be reduced to writing and signed by both the parties in the presence of at least two reliable witnesses.
- m. Payment shall be made through a bank cheque or a bank draft or a pay order as it helps in case of a dispute and it is a safer way of transaction as opposed to carrying cash.
- n. After completing the sale agreement, it shall immediately be registered with the concerned registrar and the process of

9. Remedies

- a. If there is a problem in the registration of a sale deed, then I have the right to apply to the Tehsildar or the Assistant Commissioner/DDO-R.
- b. I can lodge a complaint before the Tehsildar/AC/DDO-R against the Patwari if he/she does not enter my mutation.
- c. If someone has sold my property by applying unfair means, I can apply to the AC/DDO-R to cancel mutation if the above solutions do not work.
- d. I can also approach a Civil Court for cancellation of registration and mutation.
- e. Ali was threatened and coerced at gunpoint to sell his flat in

10. Exercise

- a. Can I sell my land to my neighbour?
- b. What problem can I face if I sell my property through an oral agreement?
- c. I am an orphan. I need to sell my house to finance my studies. How can I sell my house?
- d. I had sold my property at a very low price due to my urgent economic needs. Now I am financially stable. Can I regain my property on the basis of inadequate price?
- e. My paternal uncle coerced me to sell my ancestral home to him though I did not want to sell it. Can I rescind this sale? If yes, what can I do about it?

CHAPTER 5

Inheritance Matters

1. Introduction

- ✓ Inheritance is an unearned right in property, which is endowed upon a person on the basis of blood relation by operation of law upon death of an owner of a property.
 - ✓ The property of a deceased Muslim is first used for payment of any outstanding debts of the deceased and funeral expenses
- a. Right of inheritance is available only if it is recognised by the personal family law applicable to the deceased as per his/her faith.
 - b. Inheritance devolves automatically and immediately on the legal heirs of a person upon his/her death.
 - c. The entire property of a deceased person is subject to distribution at the time of death under the inheritance law applicable to him/her. However, this division of inheritance takes place after settling debts or expenses on the deceased's burials etc.

- d. If a Muslim nominates a particular legal heir with respect to his/her properties, such a legal heir is only entitled to take the deceased's property in his/her possession and distribute it among the legal heirs as per their shares as prescribed in the Muslim personal law.
- e. The Islamic law of inheritance is similar in application to moveable and immovable, ancestral and self-acquired tangible and intangible properties and to the benefits accruing from such properties.
- f. In Pakistan, various Shariat Application laws introduced during pre-partition¹⁷ and post-partition¹⁸ times and the Constitutions of 1956 and 1973 of Pakistan recognise the principle of application of personal laws to a deceased's property as per his/her religion.

2. Who is disentitled to inheritance?

a. Homicide

- i. Under the Muslim law of inheritance, a person guilty of killing his/her deceased relation is not entitled to a share in inheritance from the estate of the deceased e.g. if a son kills his father, he is not entitled to get his share in the property of

- ✓ Killer does not get inheritance from killed. It is based on the principle of Islamic law that no one shall benefit from the proceeds of his/her crime.
- ✓ Under the Sunni Law, a person who has caused the death of another, whether intentionally, or by mistake, negligence, or accident, is debarred from succeeding to the estate of that

¹⁷ Shariat Application Acts in 1935, 1937, 1948, 1950, 1951, 1952 for different part of Pakistan.

¹⁸ More Shariat Application Acts were promulgated in 1962, 1964, 1983.

other.

b. Children of a person's pre-deceased child

- i. Under Sunni Law, children of a person's pre-deceased son or daughter are not entitled to a share in inheritance of such a person.
- ii. This is based on the principle that the right of inheritance of a legal heir devolves only on the death of the ancestor.
- iii. Thus, any interest in the property to which a person can succeed as an heir, would devolve on him/her if he/she survives the ancestor.
- iv. In simple words, the son of the pre-deceased son is not considered to be an heir.

'A', a Sunni Muslim has two sons, 'B' and 'C'. 'B' dies in the life time of 'A', leaving son 'C'. 'A' then dies leaving 'C', his son, and 'D', his grandson son of 'B'. The whole of A's property will pass to 'C' to

- vi. This traditional view was changed by the Muslim Family Laws Ordinance, 1960. The above-mentioned rule of exclusion is not recognised by the Muslim Family Laws Ordinance, 1960, of Pakistan.
- vii. Under this law, the offspring of a person's pre-deceased child (grandchildren) inherit such share from his/her property to which their father would have been entitled if he had lived.
- viii. The provisions of the Muslim Family Laws Ordinance, 1960 relating to inheritance rights of children of the pre-deceased

child were challenged in the courts in 1999 and were declared to be against Islam. The matter is at present pending in an appeal before the Supreme Court of Pakistan and provisions of the 1960 Ordinance are operative until the Court takes a final decision.

'A', a Sunni Muslim has two sons, 'B' and 'C'. 'B' dies in the life time of 'A', leaving son 'C'. 'A' then dies leaving 'C', his son, and 'D', his grandson. Then 'A's property will pass to 'C' and 'D' under Muslim

3. Categories of legal heirs

- a. Under Sunni law, there are three classes of heirs, namely:
 - i. Sharers: those who are entitled to a prescribed share of inheritance such as parents, sons, daughters, wives, husband etc;
 - ii. Residuaries: those who take no prescribed share, but succeed to "residue" after claims of the sharers are satisfied e.g. grandfather, paternal uncle etc; and
 - iii. Distant Kindred: all those blood relations who are neither Sharers nor Residuaries e.g. brother's son, daughter's children and their descendants, son of the paternal uncle etc.
- b. Division of the deceased's property is made on the principle 'nearer in degree excludes the more remote'.
- c. Under Shia law, there are two main groups of heirs, namely:
 - i. Heirs by consanguinity, that is, blood relations; and
 - ii. Heirs by marriage that is husband and wife.

- d. Heirs by consanguinity are divided into the following classes:
 - i. Parents and children and other lineal descendants;
 - ii. Grand parents, brothers and sisters and their descendants; and
 - iii. Paternal, and maternal uncles and aunts, of the deceased and

4. Inheritance laws of non-Muslims

The inheritance matters of the people of religious faiths, other than Islam, are dealt with in accordance with the personal laws of the

'A' a Roman Catholic dies leaving behind a will which says that his property shall be equally divided between his widow and son. 'A's' will has to be executed by an executor named in the Will without applying any other principle for division of property.

5. Laws governing inheritance

- a. In Pakistan, matters relating to the estates of deceased Muslims are governed under the Muslim Family Law Ordinance, 1961 and Shariat Application Acts of 1962, 1964 and 1983.
- b. Sunnis are mostly Hanafis and follow Imam Abu Hanifa while Shias follow Imam Jafar Saadiq and are called Jafaris.
- c. Every Muslim can indicate under what personal law, he/she wants to divide inheritance. In case of a dispute, the court will decide what personal law shall be applicable.
- d. A Muslim cannot insist on applying customary law in matters of inheritance. The customary law was used to disentitle women from

19 Chapter VIII of Mulla, Mahomedan Law, Mansoor Book, Lahore.

6. Gifts, Will and Inheritance

- a. Any property that is given by a deceased in his/her life time to a person through a gift, in compliance with applicable laws, cannot be subjected to division under the law of inheritance of the deceased. Therefore, firstly, the gift will be effected in the revenue documents and then the remaining property will be divided among the legal heirs as per their entitlements.
- b. However, if there are any legal lacunas in the gift that makes it invalid, the legal heirs of the deceased may take the matter to the court. Before the court, the legal heirs may challenge the gift and pray for inclusion of the gifted property in their inheritance.
- c. If there is a Will about the remaining property, then after effecting gift, the Will shall be complied with.

7. Remedies for claiming inheritance

There is a difference of procedure in claiming inheritance in moveable and immovable properties.

a. Moveable Property

- i. After the death of a person, his/her legal heirs shall file a petition for obtaining a succession certificate.
- ii. Such a petition has to be filed in the court of the Senior Civil Judge in the city where the property or any part of property of the deceased exists.
- iii. Petition for grant of a succession certificate is filed under the Succession Act, 1925.

- iv. All or any of the legal heirs of the deceased may file such a petition.
- v. Where there is no serious dispute involved with respect to inheritance, one of the legal heirs files petition for grant of the succession certificate and all other heirs give consent in the court.
- vi. The court first issues notices and advertisements in newspapers to ensure if there is any other legal heir of the deceased who is not mentioned in the petition he/she may also join the proceedings.
- vii. In its final order, the court determines shares of all the legal heirs as per the personal law of the deceased and accordingly issues the succession certificate.
- viii. The applicant and other heirs may take possession, if not already taken, of the moveable property of the deceased and divide it amongst all legal heirs.

b. Immovable Property

- i. For claiming their respective inherited shares in urban immovable properties of a deceased person, his/her legal heirs shall file a civil suit for declaration in the court of the Senior Civil Judge of the area where the property or any part of the property of the deceased exists.
- ii. In such a suit for declaration, any one or all of the legal heirs of the deceased pray for declaring that they are the only legal heirs of the deceased and request that their respective shares in the property of the deceased be given to them.

- iii. The court determines the real heirs and their respective shares of all the legal heirs and orders division of the property, which is the subject matter of the suit as per the said shares.
- iv. The court does take into consideration such portions of properties, which may have been given away by the deceased to a particular person through a Will or a gift.
- v. If the property is a rural one, then the revenue authorities shall mutate the property in the name of the legal heirs as entered in the Pedigree table maintained by the revenue authorities.
- vi. If there is a problem in the pedigree table, then any aggrieved person may apply to the revenue authorities for a correction in the table and mutate accordingly.
- vii. If a legal heir is not happy with any matter relating to the inheritance or he/she is not satisfied by the redressal of the

9. Exercise

- a. I am the daughter of Mr. Ramlal who died in a road accident in the year 2000. My brothers have denied my share in the ancestral property. What shall I do to get my inheritance rights?
- b. My father has died last year. My name is not entered in the pedigree table. Revenue authorities are refusing to mutate my share of inheritance. What shall I do?
- c. I am poor. I think my brothers shall bear the loans of my deceased father and burial expenses on his death whereas, my brothers are insisting that loans and expenses shall be paid first. What is the true legal position?
- d. As a Sunni or a Shia Muslim, can I give all of my property to a stranger through a Will?
- e. As a Sunni or a Shia Muslim, can I give 1/3rd of my property to one of my sons?
- f. My father died leaving behind one house and two cars. How should I, and other legal heirs, claim our respective shares in inheritance?
- g. Ali is a Sunni Muslim. Ali accidentally killed his father while driving the car. Is Ali entitled to a claim of inheritance?

CHAPTER 6

Making Gifts

1. Introduction

- a. A gift (called Hiba in Islamic law) is the transfer of property made immediately, and without any exchange or payment of consideration (price), by one person to another and accepted by the later.
- b. Gifts are usually made without receipt of any consideration in exchange. However, there are two kinds of gift, which involve consideration, i.e. 'Hiba bil Iwaz' and 'Hiba ba shart-ul-Iwaz' but these kinds of gift are closer to 'sale' of a property. Thus, we will not discuss these categories and will only discuss ordinary types of gifts.
- c. A gift can be made of all kinds of properties and interests i.e. moveable, immovable, tangible and intangible properties and even

2. Who can make a gift?

- a. A gift of property can be made by any adult person (over 18 years of age) who is of sound mind.
- b. Males and females, both can make a gift whereas a child cannot make a gift.
- c. Both Muslims and non-Muslims can make a gift.
- d. Legal guardians can also make a gift on behalf of the person to whom he/she is a guardian (i.e. child or insane) if he/she is so empowered by the Guardian Court. However, it is better that such a guardian shall avoid making such gifts unless absolutely

3. To whom can gift can be made?

- a. A gift of a property can be made in favour of a natural person (human being) or a legal person, such as a company, trust etc.

4. Considerations for making a gift

- ✓ A gift can be made to any person out of love and affection i.e. daughter, teacher etc.
- ✓ A gift can be made to any person in return for his/her services rendered to the donee i.e. a servant.
- ✓ A gift can be made even in favour of an institution dedicated to some social, religious or humanitarian causes in recognition of the services which such an institution may render to the society e.g. Edhi Centre.

5. Ingredients of a gift

There are three main ingredients of a gift:

- a. Declaration of the gift by the donor;
- b. Acceptance of the gift by the donee; and
- c. Delivery of possession of the gifted property by the donor to the

6. Do I have the right to gift?

- a. Yes. It is my fundamental legal right to alienate personal property through a gift.
- b. During my lifetime, I can gift all my property or a part of it.
- c. I can make a gift of the whole of that property of which I am the sole owner. However, I can make a gift of my share if the property

7. Gift and free will

- ✓ A gift has to be made out of free will of the owner of a property and cannot be made on the orders of another person or an authority e.g. a gift on gunpoint is not valid.
- ✓ A gift made under coercion or undue influence is not valid, e.g., 'A' is an old man. He is coerced by his son 'B' to gift his property to 'B' or he will stop taking care of 'A'. If 'A' gifts his

8. Gift during death illness (Marz-ul-Maut)

- a. A person may gift his/her property during death illness (Marz-ul-Maut).
- b. A gift made during Marz-ul-Maut cannot take effect beyond 1/3rd

of a donee's estate, after payment of funeral expenses and debts, unless the legal heirs of the deceased endorse such a gift after the donor's death.

- c. A gift made in favour of an heir during Marz-ul-Maut cannot take

9. Form of a gift

- a. There is no specific format prescribed for a gift.
- b. It may be made orally or in writing. I can gift my property through a written instrument, called the 'Gift Deed', or even orally/verbally.
- c. In both forms it is necessary to make the gift in the presence of two witnesses.
- d. It is better to make a gift in writing, in the form of a 'Gift Deed', and get it registered with the relevant authorities i.e. the concerned registrar of the area where the donor resides or where

10. Form of a Gift Deed

I, Saleem Ahmed, son of Mahmood Ahmed, resident of House No. 2, Shah Colony, Multan (the **Donor**), hereby gift the properties mentioned hereinafter to my sister Ms Salma Jabeen, wife of Mohammad Khan, resident of House No. 321, Model Town, Lahore (the **Donee**).

Honda Civic car, 2011 Model, registration no. MUL 9834; and
5 tolas of gold.

50% of House No. 11, Street No. 2, Sector E 11, Islamabad.

I hereby confirm that I am the sole owner of the above-mentioned three properties to the exclusion of any other person and that the said properties are free from any kind of charge, lien and encumbrance etc. of any person or institution.

From the date of execution of this Gift Deed by me as the Donor, its acceptance by the Donee (below) and transfer of possession to the Donee, the above mentioned properties shall vest in the Donee to the exclusion of any other person including my legal heirs and she shall be entitled to use, lease, sell and pledge etc. the same in any manner she likes as its sole owner.

Along with the execution of this Gift Deed and its acceptance by the Donee (below) I hereby transfer possession of the abovementioned properties to the Donee in the presence of two witnesses mentioned below.

Acceptance

I, Salma Jabeen, wife of Mohammad Khan, resident of House No. 321, Model Town, Lahore, mentioned as Donee in the above Gift Deed, hereby ACCEPT gift of the properties mentioned above by the Donor in paragraph 1 (above).

I further confirm that I have taken physical possession of the above-mentioned properties from the Donor.

11. Donor's rights after gifting property

- a. A donor loses all proprietary rights in the gifted property after its acceptance by the donee and transfer of possession.
- b. It is essential for the validity of a gift that the donor should immediately divest himself of all ownership, rights and dominions over the gifted property.
- c. When I make a gift of a property, I will completely divest myself from all rights over such property and I will have no right on the

12. Completion of a gift

- a. For a gift to be valid, there should be:
 - i. A declaration of gift by the donor;
 - ii. Acceptance of the gift on behalf of the donee; and
 - iii. Delivery of possession of the gifted property by the donor to the donee.
- b. As soon as these three conditions are met, the gift becomes complete.
- c. In certain cases, however, the transfer of possession is not required, for instance, a gift by a father to his minor child.
- d. In cases of gifts of immovable properties, the transfer of possession at times may be notional, e.g., in case of the gift of a house, which is occupied by lessees, the donor may transfer possession by handing over keys of the gifted house to the donee.

- ✓ 'A' gifts a house owned by her to her daughter 'B' by executing a gift deed registered with the concerned registrar;
- ✓ The house is in possession of 'A's' tenants;
- ✓ 'A' transfers possession of the gifted house to 'B' by handing over the keys of the house; and
- ✓ The gift is valid even without 'A' putting 'B' in physical

13. Revocation of a gift

- a. As a general rule, a donor may revoke a gift at any time before delivery of possession and not after that.
- b. As an exception to the above mentioned general rule, a gift may be revoked even after delivery of possession of the gifted property except in the following cases:
 - i. When the gift is made by a husband to his wife or by a wife to her husband;
 - ii. When the donee is related to the donor within the prohibited degree;
 - iii. When the donee is dead;
 - iv. When the gifted property has passed out of the possession of the donee by further sale, gift or otherwise;
 - v. When the gifted property is lost or destroyed;
 - vi. When the gifted property has increased in value, whatever be the cause of the increase;
 - vii. When the gifted property is so changed that it cannot be

identified, as when wheat is converted into flour by grinding;
and

viii. When the donor has received something in exchange (iwaz) for the gift. This is in cases of Hiba-bil-iwaz and Hiba ba shart-ul-iwaz.

14. Formalities in revocation of a gift after delivery of possession

- a. Once possession is delivered, nothing short of a decree of the court is sufficient to revoke the gift.
- b. A donor cannot revoke a gift by simply making a declaration for this purpose or on the grounds that he/she has filed a suit for resuming the gift.
- c. Neither a mere declaration of revocation by the donor nor the institution of a suit for resuming the gift is sufficient to revoke the gift.
- d. A donee can freely use the property gifted to him/her until the court passes a decree confirming revocation of the gift or injunction orders are passed by the court whereby the donee is stopped from using the gifted property until final orders are passed.

15. How is a gift different from a Will?

- a. A Muslim may gift away all of his/her property to any person, including his/her legal heirs, through a gift.
- b. A gift so made is not subject to any endorsement by the legal heirs of the deceased donor, except in case of gifts made during 'Marz-ul-Maut' (death bed).
- c. On the other hand, through a Will, a Muslim can give away only a limited portion of his/her estate and it does require the endorsement of such a Will by the legal heirs of the deceased in some cases.

16. Registration of a Gift Deed

- a. A gift can be made verbally but it is always better to write it down.
- b. If the gift is reduced to writing in the form of a gift deed, then it is compulsorily registerable under the Registration Act, 1908.

17. What precautions shall I take at the time of making a gift?

- ✓ I should ensure that I have a perfect title to the property of which I am making a gift;
- ✓ While making a gift of a share in joint property, I should ensure that I clearly state the nature and extent of my share in such a joint property;
- ✓ It will be better to give an advertisement in the press about the making of the gift after its completion i.e. after acceptance and delivery of possession to the donee;
- ✓ I should always prefer to make a gift in writing i.e. in the form of a 'gift deed';
- ✓ I should ensure that the gift deed is duly registered with the concerned registrar and all fees i.e. stamp duty and registration fees are duly paid for transferring a perfect title to the donee;
- ✓ On the gift deed it is advisable to note the facts of acceptance of the gift by the donee in writing and also the fact of transfer of possession where such possession is transferred notionally;
- ✓ In case of an oral gift, it should be made in front of two witnesses who can later testify the fact of the gift in front of revenue or other authorities for mutation or the housing society's office and consequently transferring the title of the property to the donee;

- ✓ I shall not make a gift attached with conditions e.g. I have made you a gift of rupees one thousand, provided that you serve me for next three days;
- ✓ I shall make a gift for a living person or an existing legal person only, as a gift to a person who is not in existence, is not valid;
- ✓ I shall make a gift when I am healthy and not during death illness;

18. Remedies

- a. If I am forced to gift my property to a person, I can approach the civil court for its revocation.
- b. If I have been gifted agricultural property in a village through a registered gift deed or orally, I can apply to the Tehsildar/Patwari for mutation of record.
- c. If the Patwari does not make an entry in the record, I can lodge a complaint before the Tehsildar/AC/DDO-R against the Patwari.
- d. If a donor tries to revoke a gift made in my favour, I can approach

19. Exercises

- a. Can I gift any of my properties to any person or waqf/trust?
- b. What problem can a donee face if I make an oral gift of my property?
- c. What should I do after executing a gift deed?
- d. I had gifted a moveable property to my sister and had also transferred possession of that property after her acceptance. Can I revoke the gift now?
- e. I have a general power of attorney with respect to a property. Can I gift that property to someone?
- f. My brother forced me to gift him one of my landed properties. Under coercion I signed the gift deed. Is the gift valid? If not, what should I do?
- g. My father gifted his entire property to my brother during Marz-ul-Maut. Can I challenge such a gift?

CHAPTER 7

Making a Will

1. What is a Will?

- a. A 'Will' is a method by which a person may instruct, during his/her lifetime, about the treatment of his/her properties after his/her death.
- b. A person uses a Will when he/she wants his/her property to be treated after his/her death, differently from the personal law of inheritance, which is applicable to him/her.
- c. In addition to prescribing the treatment of the estate, a Will may also contain provisions relating to other matters. For instance, a person may state in his/her Will that his/her body should not be subjected to an autopsy or embalmment and should be immediately buried at a particular place in accordance with the rites of his/her religion. Such directions are only applicable and executed if they are in conformity with the law of the land.

- d. In Pakistan, every person who is over 18 years of age (a major) and of sound mind can make a Will during his/her lifetime with respect to the disposal of his/her property after his/her death.

2. Oral or written Will?

Although a Will can be made orally or in writing, it is better to reduce it to writing to avoid complications of proving it through evidence before courts in legal proceedings as it will be more difficult to prove an oral Will if it is disputed.

3. How much property can be given through a Will?

- a. The rules of making Will are different in every personal law.
- b. In Islamic law, the two major sects, 'Sunni' and 'Shia' have different rules for making Wills²⁰.
- c. A Sunni Muslim can dispose off a maximum of 1/3rd of his/her estate through a Will. The rest of the property has to be compulsorily divided among the legal heirs of a deceased Sunni Muslim.
- d. A Shia Muslim can dispose off more than 1/3rd of his/her estate

4. Will in favour of a particular legal heir

- a. Sunni Muslims can make a Will in favour of one or more legal heirs, but such a Will is valid only if all other legal heirs give their consent.
- b. On the other hand, Shia Muslims can make a Will in favour of one or more legal heirs without the consent of others, if the share

²⁰ There are two main sects of Muslims in Pakistan: Sunni and Shia. A vast majority is Sunni who follow the Hanafi school of thought of Imam Abu Hanifa (699-767 CE or 80-148 AH). The Shia sect follow Imam Jaffar Saadiq (702-765 C.E. or 83-148 AH). In inheritance, will, gift etc., matters, their personal law is applicable.

being disposed off does not exceed 1/3rd of the estate.

- c. If the Will is made by a Shia Muslim with respect to more than

'A' a Sunni Muslim has 3 residential plots of land of the same value. 'A' has 2 daughters and 1 son. In his lifetime 'A' makes his Will in writing in which he gives away one plot of land to his son in addition to his son's share in inheritance. After A's death, A's daughters refuse to consent to this Will and refuse to accept it. Hence, 'A's' Will is not valid.

'B' a Shia Muslim has Rs. 100,000 in a fixed deposit in a bank. 'B' has 2 sons and a wife. Before his death, 'B' makes his Will in writing

5. Will made on the deathbed

- a. A person who is of sound mind may make a Will at any time after attaining the age of majority (over 18 years). However, there is one exception to this rule i.e. a Will made by a person while he/she is on their deathbed.
- b. A Will made by a person, whether in writing or verbally, while he/she is on their deathbed is not acted upon or executed after his/her death, unless the legal heirs of the deceased accept such a

6. Wills made by non-Muslims

- a. Under the laws of Pakistan, non-Muslims can make a Will in their lifetime to gift away their entire estate unless their personal law imposes any particular restriction.
- b. In other words, the Islamic law of Wills does not apply to non-Muslims and there is no substantive public law governing Wills

21 Mullah's Mahomedan Law, Mansoor Book House, Lahore, 2010, Chapter IX.

made by non-Muslims.

- c. The personal law of each citizen governs the Wills.
- d. Therefore, Hindus can make Wills according to their laws and Christians can make Wills according to their personal laws.

'A' a Parsi/Zoroastrian by faith has 2 houses. In his lifetime 'A' makes his Will in writing stating that all his property should be divided equally between his 3 legal heirs i.e. his widow and 2 daughters. 'A' appoints his nephew 'C' as an 'Executor' for executing his Will. 'A's' Will is valid and his property has to be divided after his death in accordance with the provisions of his Will

7. Changing or revoking a Will

- a. A Will can be changed during the lifetime of a person who has made a Will.
- b. A Will cannot be changed, by a person making a Will, when that person is on his/her deathbed.
- c. A Will can be revoked during the lifetime of a person who has made a Will.
- d. A Will cannot be revoked by a person making a Will when he/she

8. Registration of a Will

- a. Wills can be made verbally or in writing.
- b. Written Wills shall be registered under the Registration Act, 1941.

9. What precautions do I need to take while making a Will?

- a. I should reduce my Will to writing, instead of pronouncing it verbally in front of somebody.

- b. If I have to make a Will verbally, then I shall announce it in the presence of two reliable witnesses.
- c. I should ensure that I only mention those properties in my Will which I own. If I own a share in a property and want to dispose of it through Will, I should mention the share clearly in my Will.
- d. I should give a reference of the documents of the title of the properties which I am including in my Will.
- e. I shall take all possible measures to identify exactly the property that is subject to the Will to avoid any confusion and subsequent dispute.
- f. I shall ensure, as a Sunni, that I do not dispose off more than 1/3rd of my property through a Will.
- g. As a Shia Muslim, if I give away more than 1/3rd of my property to any person who is not a legal heir, I should secure endorsement of such an act from my legal heirs.
- h. I should ensure that I execute my Will in front of two witnesses and give it to some trustworthy person who will produce it after my death.
- i. Ideally, I should make my legal heirs or other legal heirs, as the case may, witnesses to the execution of my Will. This is necessary for ensuring that after my demise my legal heirs do not have to go to court for settling inheritance matters with respect to my estate.
- j. I should ensure that my Will is duly registered with the concerned Registrar.
- k. If I am unable to register the Will myself, I should instruct the executor appointed by me to register the Will immediately after

my death.

- l. In the Will, I shall appoint or nominate a person, an executor, who has to execute my Will. The executor may even be non-Muslim.
- m. My executors have to administer my Will according to my personal law and the Succession Act, 1925, in so far as these are applicable to Muslims.

10. Remedies

- a. If I want to enforce the execution of my late mother's Will or if I want to challenge the same, I can file a case in the civil court.
- b. If I have been given agricultural property by my father in a Will, I can apply to the Patwari for mutation of record.
- c. If the Patwari does not make an entry in the record on the basis of the will, I can lodge a complaint before the Tehsildar/AC/DDO-R

11. Exercises

- a. To what extent can I give away my property through a Will?
- b. What should I do after making a Will in writing?
- c. I am a Roman Catholic Christian. Which law will govern my Will?
- d. Can I revoke my Will and make a new one superseding my earlier Will?
- e. I am appointed as the executor by my father for his unregistered Will. Can I register it?

CHAPTER 8

How are Property Rights Transferred?

1. Do we have the right to transfer?

The 'right to transfer' an ownership is a fundamental property right.

- ✓ Every owner of a property has a fundamental right to transfer its right in property through sale, gift, Wakf etc;
- ✓ The right to transfer is a part of the right of ownership;
- ✓ Transfer of property rights may occur automatically by operation of law without any intention to transfer e.g. inheritance after a death of an owner of a property;
- ✓ Transfer of property may also take place without the consent of the owner, but the after payment of price, as it is done in case of compulsory acquisition of a property by the state; and
- ✓ In some cases, transfer of property may take place without the

2. Who can transfer his/her property?

- a. Every adult (major) person can transfer his/her right in a property. Under the laws of Pakistan, the age of 'majority' is eighteen years and above.
- b. Every child (minor) who is under eighteen years of age can transfer his/her rights through his/her legal guardian duly appointed by a court of competent jurisdiction i.e. The Guardian Court, and if the court has granted him/her permission to sell or transfer the property.
- c. The property of a child cannot be sold or transferred by a natural guardian such as a father and mother. A natural guardian can only transfer property if it is appointed as a legal guardian by the Guardian Court and the court has given him/her permission to transfer the rights of the child.
- d. If the owner of the property is insane, then the legal guardian, duly

3. What laws govern the transfer of property rights?

The following laws govern the transfer procedures:

- ✓ The Land Revenue Act, 1967. The law is almost similar in all provinces with minor changes. This is the basic law dealing with the records of rights in property and it authorizes mutations effecting change in ownership;
- ✓ The Transfer of Property Act, 1882. It is a general law, describing concepts, principles of property and regulating transfers of interests in property (sale, lease, mortgage etc.);
- ✓ The Registration Act, 1908. It details with registration of

documents, registration processes and procedures. The law is applicable on any registration of transfer/sale deeds; and

4. What modes of transfer are available to me?

As owner of a property, I can adopt one of the following modes to transfer my rights in a property:

- ✓ Mutation in revenue records;
- ✓ Registration of the transfer deed;
- ✓ Mutation followed by registration; and

- a. **Mutation of a right** in revenue records from one person to the other under the Land Revenue Act, 1967.
- b. Mutation is mostly done in rural areas, though sometimes second mode i.e. registration is also done before mutation.
- c. **Registration of the transfer deed** with the relevant registration authorities/revenue authorities i.e. the Assistant Collector/ Tehsildar/ Mukhtiarkar under the Registration Act, 1908.
 - i. It is generally preferred in urban areas. In some urban areas, it is a legal compulsion that registration shall be done even if it is followed by mutation in revenue records.
 - ii. Revenue authorities do not automatically enter names of the parties in the record-of-rights after registration though law requires that a copy of the registration shall be sent to the concerned revenue authorities for mutation as per registration.
 - iii. However, transfers affected through registered deeds are

accorded a better degree of credibility and a registered document is accepted without any further or elaborate inquiry in the process of mutation.

- d. **Mutation followed by the registration** is a combination of both the above-mentioned processes i.e. registration followed by mutation and not vice versa. This combination is better and safer as it creates more documentary evidence for the titles for ownership; hence, it is followed the most in common practice.
- e. **An oral or verbal agreement** is valid for transfer of a right in land under the laws of Pakistan.
 - i. An oral agreement for transfer may be done for a sale, purchase, gift, Will etc;
 - ii. Though an oral agreement is valid, it may create complications if transfer processes are not followed e.g. one party may not honour its commitments. In such eventuality, if the aggrieved

5. What are the salient features of the mutation process?

Ms. Noor Jahan wants to transfer her share in her property situated in Mauza Uthaal, Islamabad. What should she do to get a transfer through mutation?

- a. Ms. Noor Jahan herself or through a person holding her power of attorney (general) may report her intention to transfer the rights to the Patwaari;
- b. The Patwari shall furnish a copy of the report written by him free of

- cost to Ms. Noor Jahan;
- c. The Patwari shall also send a copy of such a report within a week to the Union Council concerned;
 - d. The report so recorded shall be displayed in the office or a public place by the Patwari in a prescribed manner;
 - e. If the report is not recorded by the patwari, Ms. Noor Jahan may;
 - i. Make a report in writing to the Nazim/Chairman/Administrator of the Union Council in which the land is situated;
 - ii. Make a report to the concerned Revenue Officer by registered post acknowledgment due; and when the Revenue Officer receives such a report, he/she shall cause the report to be entered in the mutation register.
 - f. The mutation register consists of a counterfoil and foil. The former is the Patwari's copy of the register, the latter is removed after the order is passed, and is sent to the Tehsil to be filed with the jamabandi.
 - g. The Patwari should make his entries in relevant columns. He shall briefly state the facts explaining the change, the names of the persons on whose information the entry is based, and require the Lambardar (Headman) concerned to attest the entry by seal or signature.
 - h. The Patwari is, however, strictly forbidden to take the thumb-impresion or the signature of Ms. Noor Jahan or of any of the parties to the transaction anywhere on the mutation sheet.
 - i. The field Qanoongo must attest, by personal examination of

papers concerned, every entry made by the Patwari in the counterfoil and foil, noting briefly that he has done so with the date below the report in the latter. He must sign the entries in both counterfoil and foil.

- j. The Revenue Officer shall attest the mutation, except in cases of inheritance or where acquisition is done through a registered deed or under an order or decree of a court, in the presence of the person whose right has been acquired.
- k. Such a person shall be identified by two respectable persons preferably from Lambardars.
- l. The signatures or thumb-impressions of the identifiers shall be obtained by the Revenue Officer on the register of mutations.
- m. The inquiry and order on mutation shall be made in the Jalsa-e-Aam/common assembly at an appointed date in the revenue estate in which the land is situated.
- n. The Revenue Officer shall carefully compare entries in counterfoil and foil, and must write his/her order on the latter. He/she should see that all entries in the mutation sheets as well as his/her orders thereon are neatly and legibly written.
- o. The order should show whether the parties interested were all present; or if anyone was absent, the way in which his/her evidence was obtained; or, if it was not obtained, what opportunity was given to him/her to be present; also who identified the parties present, and the place at which, and date on which, it was written.

- p. No detailed record of the statements of parties and witnesses need to be made, but the order must briefly state the persons examined by the Revenue Officer, the facts to which they deposed and the grounds of the order.
- q. He/she must write with his/her own hands in the counterfoil, a very brief abstract of the operative part of his/her order giving numbers of the fields affected and their total area etc. No recital of the facts on which the order is based should be entered in the counterfoil.

Application for Recording Mutation

Deputy District Officer-Revenue/Assistant Commission/Tehsildar
Tehsil Khanpur
District Rahim Yar Khan

Subject: Recording transfer of land through Mutation

1. That the applicant has purchased ten acres of land in muaza Karimabad, Tehsil Khanpur, Rahim Yar Khan from Mr. Islam s/o Maola Bux, cast Taat, r/o Basti Malana.
2. The purchased land is situated at khasra numbers 1234 to 5678 of muaza Karimabad.
3. It is requested that the same land may be mutated in my name and name of my wife, Ms Allah Rakhhi as a joint ownership.

Malik Dost Mohammad

6 July 2011

6. What if someone wants registration first?

- a. He/she can register the documents for the transfer of property rights with the local specified and designated revenue officer.
- b. He/she must check as registration, even before mutation, of some land transfers in rural areas is obligatory in some parts of Pakistan. If his/her property is urban, then registration is mandatory for mutation. So the first step for him/her is to check whether registration is compulsory or optional.
- c. Transfers that ought to have been registered but are not registered, are not admissible in judicial proceedings relating to ownership disputes.
- d. He/she has to purchase the required stamp papers from government offices or authorized agents.
- e. The registrar's office can inform him/her about the exact amount of stamp papers to be used for registration. The amount is normally one to two per cent of the sale price of the property. Registration requires a registration fee as well.
- f. He/she shall get a sale agreement written from a local application writer (Arzi Nawees) who sits in or around the court premises or through his/her lawyer.

7. How to object on a transfer of property?

- a. I can attend the Jalsa-e-Aam and object on the transfer of rights. The 1967 Revenue Act and relevant rules require a Revenue Officer to settle the claims of transfer of property rights in an open Jalsa-e-Aam/Common Assembly in the relevant revenue estate in the presence of the persons whose shares are to be purchased. Anybody can attend the assembly and record the objections and

Application for filing objections on Mutation

Tehsildar
Tehsil Khanpur
District Rahim Yar Khan

Subject: Application for filing objections on Mutation

1. That the applicant is the owner of ten acres of land in muaza Karimabad, Tehsil Khanpur, Rahim Yar Khan and the said land was purchased last year from Mr. Islam s/o Maola Bux, cast Taat, r/o Basti Malana.
2. The purchased land is situated at khasra numbers 1234 to 5678 of muaza Karimabad.
3. That now Mr. Islam is selling this land to someone else.
4. It is requested that the same land may not be mutated in any name as I own the property.

- b. If my objection is not removed, then I can try to solve the problem amicably through a panchayat (the process of informal disputes resolution). If I do not see any success in the panchayat/jirga, then the matter can be determined through the Revenue Courts or Civil

8. Normal dispute resolution procedures

- ✓ We can file a review before the same officer for his/her own order on grounds of an error patent on the face of the record, clerical or arithmetical errors etc. with the caveat that the order of the predecessor may only be modified with prior approval of the next above Revenue Officer. For example if, instead of the year 2012, it is mistakenly written 20122. The same officer can correct it in the review;
- ✓ We can file an appeal before a higher revenue court. Normally, it is the court of a Collector of Grade I or a Collector if we have to challenge mutation. All issues of law and facts may be disputed, agitated or challenged in such an appeal. For example, if a grandson of a predeceased father is denied share in an inheritance from his grandfather, he can file an appeal, as it is against the existing laws in Pakistan;
- ✓ We can file a revision petition to a higher authority. Revision is maintainable on the grounds of jurisdiction only i.e. that a revenue officer has overstepped his/her jurisdiction or has done something for which he/she did not have jurisdiction. For example, a revenue officer who is not authorized to approve a mutation approves it. In this case, he/she has over stepped his/her jurisdiction. It can be challenged before a designated higher forum;

- ✓ We can file Civil Suits: If we are not satisfied from the Revenue Courts/Officers or some complex question of law and facts is involved, then the Civil Court's hierarchy becomes the eventual course of the last resort. It is then better to file a case in a Civil Court;
- ✓ Sometimes, when one party exhausts remedies at all tiers of the revenue hierarchy including the Board of Revenue, it then challenges the decision of the revenue authorities before a local Civil Court and then the matter can go up to the level of the Supreme Court in another round of litigation. It is

9. Remedies

- a. For registration of a document evidencing transfer of property by me, I should go to the concerned registrar appointed for this purpose
- b. In case of properties situated in rural areas, I can object to a transaction for transfer of rights in a 'jalsa-e-aam'/common assembly, held by the concerned revenue officers.
- c. For mutation of record in case of rural property, I can approach the concerned revenue officer i.e. the Patwari, Tehsildar, Assistant Commissioner etc.
- d. For challenging any transfer of property in urban areas, I can file a case in the civil court.

10. Exercises

- a. What modes of transfer can I use for the transfer of my urban property?
- b. In what form should a transaction for transfer be given effect?
- c. What problems will a transferee face if I orally transfer my property through a gift, sale or exchange?
- d. Can I transfer a property owned by my minor child?
- e. What should I do if I have objections to a transaction of transfer of