

OTHERS

A Study in respect of the delay in the cases pending under Revenue Laws in Gujarat

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SUMMARY

The study examines delays in resolving revenue cases under Gujarat's land laws. Historically, India's agrarian economy relied heavily on agriculture, with various land revenue codes enforced over time, including the Bombay Land Revenue Code (1879). After Gujarat's formation in 1960, no significant reforms were made to these laws, resulting in protracted litigation. Disputes often span decades, burdening farmers and causing generational involvement in cases. Key land disputes involve issues like mutation entries, hereditary transfers, and acquisition for infrastructure projects. The judicial hierarchy—from Mamlatdars to Deputy Collectors, Collectors, Revenue Secretaries, and eventually civil or high courts—entails complex, time-consuming appeals and revisions. Cases often get remanded for reconsideration, further prolonging resolution. To address these inefficiencies, the study advocates for establishing district-level revenue tribunals, replacing the current multi-tiered system. These tribunals would streamline dispute resolution, reduce appeal stages, and ensure quicker justice. Chaired by retired judges with revenue officers as members, tribunals could alleviate workloads for existing revenue officials, curbing corruption and delays. The Gujarat Revenue Tribunal Act, 1957, should be amended, incorporating sections from the Revenue Code to enhance judicial efficiency. This reform would benefit stakeholders by expediting decisions and improving agricultural land governance.

KEYWORDS

Revenue Tribunals; Land Disputes; Judicial Hierarchy

INTRODUCTION

India is the Agriculture oriented Country and it is said that the economic development of the Indian depends on the agriculture. India possess plenty of agriculture lands and before the independence, the Kings and Princes, businessmen and moneylenders were holding agriculture lands in huge proportion and then, the British rule came in the India. Looking to the Indian History, it clearly indicates the fact that first British company named East India Company, which was also known as English East India Company, established and ruled in India from 1600 to 1708 and then the Company of Merchants of London Trading in East Indies and United Company of Merchant of England to East Indies were established and ruled from 1708 to 1873 and these companies were merged into His Excellency Charter on 31st December, 1600 for the business

exploitation with East and SouthEast Asia and India. The intention of this Company was to take away agriculture products, Indian spices, pepper etc. from India to the foreign countries and sold them. These agriculture products were running /growing in the India very well and as there were big and huge agriculture lands in India and at relevant point of time, the rules of the Princely States were prevailed, the Kings and Princes were considered as the owners of these entire lands. Thereafter, the Britishers came and British rules were enforced. During this period, for the change of lands, ownership rights and administration of lands, it required laws and hence, the Bombay Land Revenue Code was enforced in the year 1879. After the merger of Princely States, the Indian Government was constituted. Before 1st May, 1960, Gujarat was known as Brihad Bombay and so,

the Bombay Land Revenue Code was formulated, followed by the Bombay Land Revenue Rules, in the year 1972. Under this Act and rules, the Government had prepared formats and records of the agriculture lands and the management was made for the change of lands, sales, and recovery of revenues etc. as per these Rules. Thereafter, different laws like Gujarat Tenancy Act and Rules, Fragmentation and Consolidation Act and Rules and Agriculture Lands Ceiling Act and Rules, Mamlatdar Court Act, Gujarat Revenue Act and Rules, relating to agriculture lands were framed by the Government as per requirements and all types of records about the agriculture lands were maintained by the Government as per these Rules. Though all these laws exist and though the provisions are made by the Government in these laws, the revenue cases are not disposed off/wiped out speedily and half of the lives of the farmers spend in getting the results/outcome of these cases and even at the end, the farmers do not get justice in the cases of their agriculture lands. (1-2)

Gujarat State was constituted on 1st day of May, 1960 from the Brihad Mumbai and on 30.4.2011, vide Sr. No. 15 of Gujarat Act, the word "Mumbai" substituted by the word "Gujarat". Thus, even after lapse of 51 years' time, Gujarat Government change only name from the Acts and till date, no major or effective changes are made in the procedures and provisions of the Act. Resultantly, the revenue cases are preceded as per the old procedures and which turn in to the dumping of cases, delay in getting justice and multiplicity of proceedings. we can see that in so many cases, it takes period of 20 years to get the solution of the revenue cases. Agriculture and agriculture lands are the epicenter in the development route of the India and it is one of the main policy challenges to find out the solution of speedy disposal of revenue cases and struggle. (3)

Foreground

India is an agricultural country and it is said that the economic development of the Indian depends on the agriculture. There exist agriculture lands in huge proportion in the India and before the independence i.e. at the time of princely states, revenue laws were existed and at that time also, revenue charges of lands were recovered. After the independence, Gujarat was Brihad Mumbai and at that time, the Bombay Land Revenue Code, 1879 was existed and then, the Gujarat Government has changed the name of this Act as Gujarat Land Revenue Code. Whether the Reformers have tried to reform the Law, to establish Revenue Tribunal to get speedy justice by making necessary changes in the laws or is there necessary to make changes in

the judicial system? If the answer is yes, the attempts are made to verify as to which kind of changes are necessary to make in laws and what will be the impact on the society?

Land disputes and legal modalities in Gujarat

So many revenue cases are pending in the Courts in Gujarat. The cases like purchase and sale of the agriculture lands, partition, procedure to enter the rights in existence and procedure to delete the name after death, in case of fragmentation, procedure for breach of fragmentation, dispute of egress in the land, acquisition cases for the lands for Narmada canal, creation of pieces of land while developing Narmada canal, question of egress in the lands of farmers and closure of ways due to creation of canal etc. are raised. Moreover, at the time of mutating entry in the village form No.6- Hakk Patrak of the land and if any person raises the dispute, such dispute case is tried by the Mamlatdar. Against the decision of Mamlatdar, RRT Appeal is preferred before the Deputy Collector, under section 203 of the Gujarat Land Revenue Code, within 30 days. Against the order of the Deputy Collector, Revision Application is filed before the District Collector, under section 211 of the Act, within 60 days. Against the order of the Collector, Revision Application is preferred before the Special Secretary, and then, the dispute is raised before the Gujarat High Court or Civil Court. Thus, the procedure mentioned and applied in the Land Revenue Code, is very lengthy and expensive and it takes too much time in litigation.

Case Types as per Gujarat Land Revenue Code

So many revenue laws are existed in Gujarat and the cases as per the laws are proceeded in different Courts.

- Cases relating to mutation of entry made in the village form no.6- Hakk patrak,
- which contain sale entry, hereditary entry, entry of deletion of right etc.
- Appeal under Rule 108 of the Land Revenue Code.
- Revision Applications u/s. 205 of the Land Revenue Code.
- Suo-motu Revision Applications u/s. 211 of the Land Revenue Code.
- Suits and appeals u/s. 5 of the Mamlatdar Court Act.

Jurisdictional Power of Revenue Cases

1. **Circle Officer/Mamlatdar:** As per the provisions of Land Revenue Code, decisions relating to sale entry, hereditary entry, entry of deletion of right etc. mutating in village form no.6- Hakk patrak are taken by Circle Officer and Mamlatdar, but

any of the parties raises dispute against the entry by filing objection application and makes the entry disputed and so, such dispute is taken into register and after hearing both parties, Deputy Collector disposes of such disputed cases as per new circular.

2. **Deputy Collector:** Deputy Collector is the Appellate Authority as per Revenue Laws and Deputy Collector empowers to dispose of any disputed case. Moreover, if any party has objection to the decision of the Circle officer or Mamlatdar, an appeal being RRT Appeal shall be filed before the Deputy Collector, against such order.
3. **District Collector:** District Collector is the supreme revenue authority of the District and when any order is passed by the Deputy Collector, Collector has power to take such decision into revision and being the Revisional Authority, any decision which is taken by the Deputy Collector can be quashed in revision. Any entry mutated in revenue record, powers are assigned u/s. 211 of the Act to taken such entry in suo motu revision. (4)
4. **Revenue Secretary(Appeal), Gandhinagar:** Against the order of the Dist. Collector in Revision, Revision Application shall file before Revenue Secretary(Appeal), Gandhinagar and order of the Collector can be taken in Revision. Thus, against the order of Revenue Secretary litigation can be filed before the Gujarat High Court or in case of ownership rights, suit can be filed in concerned Civil Court.

Types of Disputes

As per the provisions of Land Revenue Code, decisions relating to sale entry, hereditary entry, entry of deletion of right etc. mutating in village form No. 6- Hakk patrak are taken by Circle Officer and Mamlatdar, but any of the parties raises dispute against the entry by filing objection application and makes the entry disputed and so, such dispute is taken into register or any entry is certified, appeal shall be filed against such entry before the Deputy Collector and against the order of such appeal/application, Revision Application is filed before the Dist. Collector. Against the order of the District Collector in Revision, Revision Application shall file before Revenue Secretary(Appeal), Gandhinagar and order of the Collector can be taken in Revision. Against the order of Revenue Secretary, petition shall file before the Gujarat High Court or in case of ownership rights, suit can be filed in concerned Civil Court.

When so many revenue cases are studied, it come to know that against the order of Mamlatdar,

appeal is filed before the Deputy Collector, Deputy Collector does not give decision on merits but remands the matter for reconsideration. Against the order of remand case, the concerned party has to file appeal before Deputy Collector again. Against the order of Deputy Collector, Revision Application is filed many times before the Collector, but no decision is taken on final merits but the case is remanded for reconsideration. Against the decision of the Remand Case, the party shall file Appeal before Deputy Collector and then, against the order of Dy. Collector, the concerned party files Revision Application again. Against the order of Collector, Revision Application is filed before Revenue Secretary, Gandhinagar but no decision is taken on final merits but Revenue Secretary, Gandhinagar is remanded Revision for reconsideration. Against the decision of the Remand Case, the party shall file Appeal before Collector and then, against the order of Collector in Remand Case, the concerned party constrains to file Revision Application. As per the Land Revenue Laws, the procedure and stages of the Appellate Authority increase and due to proportion of Remand Cases, the litigations continue for long time and the parties get the justice very late. In recent time, it becomes too expensive to get justice and in so many cases, time comes to join heirs of the parties in the disputes. Thus, the cases run in Revenue Courts for two generations. Many times, Dist. Collector takes old entries in suo-motu revision under section 211 and 108(6) of Land Revenue Code and such entries are cancelled after many years but it is not specified in the laws, in how much time, the Collector takes suo-motu revision.

The Hon'ble Supreme Court has held in the case of State of Gujarat v. Patel Raghav Natha and others, reported in 1969 AIR 1297, 1970 SCR (1) 335 that Bombay Land Revenue Code, 1879, Sec. 65, 211 – Constitution of India – Art. 227 agreement between Government and petitioner for use of land for non-agriculture purpose- sanad was granted for a period of 30 years- difference between Kabuliyat and agreement- agreement stting that grant subject ot the provisions of the Code- applicability of Sec. 211 – held- A Kabuliyat passed by an occupant in Form F(1) is not an agreement – part of proceedings only it has no separate entity or existence apart from that proceeding nor has any greater sanctity than proceeding itself Government has right to revise the terms of Kabuliyat as well as to cancel it in a fit case u/s. 211 of the Code- Sec. 211 could not apply to the agreement even if it is tried to be so made applicable by particular condition - order passed by Commissioner set aside petition- allowed. (5)

Case Study

Copy of the judgment passed in Misc. Application No. 7/2018 by court of Collector, Surendranagar, is studied. Looking to the facts of the case, applicant Vaghjibhai Laljibhai Bhankodiya was holding agriculture land of survey No. 199 admeasuring acre 2-19 guntha and he sold agriculture land to third party on 10.9.2004 and he had no other agriculture land as per the provisions of Resolution No. GNT/2699 – 4343-Z dated 24.1.2003 of the Revenue Department, the applicant made an application to continue his agriculturist status on 10.6.2005 but the same was dismissed by Collector, showing the reason that the said application has been filed after delay of 8 months and so, agriculturist status cannot be given. Then, the applicant made an application to the Revenue Secretary, Appeal, Ahmedabad but vide Order No. MVV/JMN/SNR/114/05 dated 28.11.2011 in Revision appeal in the Order of Collector, Sureneranagar was quashed and the matter was remanded for reconsideration as per Circular of the Government and Collector has tried it as Misc. Application (6)

Hon'ble Gujarat High Court has held in the case of Mumaman Habib Nasir v. State of Gujarat reported in (1970) 11 GLR 307 that purchaser of two plots of land in public auction- petitioner agreed to pay non-agricultural cess in respect of lands- show cause notice as to why the auction sale should not be cancelled- reply to the notice- the State Govt. is not an immediate officer within the meaning of Sec. 203 Sec. 203 contemplates an appellate hierarchy of revenue officers from the lowest to the highest the decisions of the officers connected with survey will be appealable U/s. 203 to the superior officers u/s. 203 if Code, no appeal lies to the State Government from the decision of Revenue officer- whatever deleted from Sec. 204 cannot be read having been automatically transferred to Sec. 203 without any corresponding amendment to that section- Provisional powers u/s. 211 of the code are not only exercisable by the State Government but also by certain other Revenue Officers not proper to say that the powers u/s. 211 conferred upon State Government and upon certain revenue officers are exhausted as soon as they are once exercised by Revenue officer- it is open to the State Government u/s.211 to exercise further Revisional powers either suo motu or otherwise and look into the order or decision of Collector to ascertain that is legal or not- powers u/s. 211 must be exercised within a reasonable period- cannot be said that S.209 which refers to the Appellate Authority also includes Revisional Authority - appeal allowed. (7)

In addition to this, Hon'ble Gujarat High Court, in the case of Bharatkumar C Jinwala v. State of Gujarat, reported in 2015(1) GLR 576, has held that – Bombay Land Revenue Code, 1879- S. 135D, 211- Urban Land (Ceiling and Regulation) Act, 1976- Cancellation of entry- exercise of suomoto Provisional powers- petitioner purchaser land in public auction on basis of impugned entry no. 816- Asstt. Collector issued notice for cancellation of impugned entry after lapse of 5 years- petitioner filed appeal before Collector- Collector rejected appeal- Tribunal also rejected revision and confirmed order of Collector- petition- held, statutory powers are required to be exercised within limitation or the time prescribed (8)

In the statute- even if there is no time prescribed, it has to be exercised within a reasonable period- exercise of power beyond a reasonable period would not be justified even if there is irregularity or the transaction is not valid- there is no justification for exercise of such powers after 5 years- it cannot be said that there was no auction sale and the petitioner – society has not purchased the land- land holder deliberately played a mischief only to have an advantage under the ULC Act- persons should not be allowed to take undue advantage of the court proceedings- order of Tribunal and Collector quashed and set aside- entry no.816 restored- petition allowed.

In addition to this, Hon'ble Gujarat High Court, in the case of Collector, Rajkot v. Bavabhai Karsanbhai Patel reported in 2002(3) GLR 599, has held- law points- Bombay Land Revenue Code, 1879- Sec. 211- power of State Government and of certain Revenue Officers to call for and examine record and proceedings of subordinate officers and to pass order thereupon- Constitution of India- Art. 226, Art 227- power of high courts to issue certain writs- power of superintendence over all court by the High Court- Rule discharge. (9)

CONCLUSION

So many different land revenue laws are prevailed in Gujarat State where the proceedings are carried out and preceded by Mamlatdar, Dy. Collector and Collector as per Land Revenue Code and Rules, but such procedure is very lengthy and expensive as per Revenue Act, and it takes too much time. Therefore, the Government should make reform/modification in the Land Revenue Code and establish the Tribunal in place of the powers conferred to the Revenue Officers, under the Revenue Laws. Such tribunal shall consist of Chairman and members nominated by the State Government. Being the Chairman of the Tribunal, it should be Retired

District Judge and as the members, there should be retired Revenue Officer, not below the rank of Deputy Collector. There shall be one Tribunal at every district level and this Tribunal shall precede all type of cases including dispute cases and the order shall be challenged before the High Court only and if it requires to prove the case through evidences, the Civil Court has jurisdiction to proceed. Because of such procedure, the stages for appeal and revision shall be reduced and the people can get the justice speedily.

Gujarat Revenue Tribunal Act, 1957 exists in the Gujarat and it is required to be amended and some sections in the Revenue code may be deleted and add in Gujarat Revenue Tribunal Act, 1957, so that the people can get the justice speedily. The work burden on the revenue officers can be reduced and so, the revenue officers can easily and smoothly do their work and I believe that the corruption can be reduced at some extent.

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NIL

CONFLICT OF INTEREST

NIL.

DECLARATION OF GENERATIVE AI AND AI ASSISTED TECHNOLOGIES IN THE WRITING PROCESS

The authors haven't used any generative AI/AI assisted technologies in the writing process.

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