

5

Rajasthan Land Revenue (Partition) Rules, 1957

CONTENTS

Rule No.	Particulars	Page No.
1-2.	Preliminary	45
3-6.	Rules to give effect to the provisions of Sec. 197. Determination of principles and conditions of valuation.	45
7.	Rules to give effect to the provision of Sec. 203, Estimate and levy of partition costs.	46
7(13).	Rules to give effect to the provisions of Sec. 223, Division of estate between Government and estate holder.	47

5

¹Rajasthan Land Revenue
(Partition) Rules, 1957

In exercise of the powers conferred by cl. (xxv) to (xxxvii) of sub-sec. (2) of Sec. 261, read with Secs. 197, 203 and 223 of the Rajasthan Land Revenue Act, 1956 (Act No. 15 of 1956), the State Government is hereby pleased to make the following rules, namely:—

Preliminary

Rule 1. (1) These rules may be called the Rajasthan Land Revenue (Partition) Rules, 1957.

(2) They shall extend to the pre-reorganisation State of Rajasthan excluding the sub-division of Sironj.

(3) They shall come into force on the date of their publication in the Rajasthan Gazette.

Rule 2. In these rules unless the subject or context otherwise requires, "the Act" means the Rajasthan Land Revenue Act, 1956 (Raj. Act No. 15 of 1956).

**Rules to give effect to the provisions of Sec. 197.
Determination of principles and conditions of valuation.**

Rule 3. In making a partition, the Collector shall, subject to the provisions of Secs. 209 and 210 of the Act, first allot to the applicant such lands (if any) as are held by him as his Sir, Khudkasht or Hawala within the meaning of cl. (23) of Sec. 5 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act No. 3 of 1955), or in severalty and then so much of the lands held in common (if any) as shall give him, as far as may be, a portion of the estate proportionate in value to his share therein, unless there is any recognised village custom to the contrary or the parties agree, otherwise.

Rule 4. (1) In making an estimate of the value, the Collector shall bear in mind that the object of valuation is not to arrive at the Sale value of the land, but to make a just estimate of the value of plots relatively to one another.

(2) If the village is a settled village the assessment statement of the village and of the estate to be partitioned shall be studied and the valuation shall as far as possible, be based in the general principles followed in calculating the assets at settlement. When the settlement is fairly recent and conditions have not changed, the settlement rent-rates may be adopted as the basis of valuation with modifications for such minor changes as may have occurred, such as in tenant is rights.

(3) If there have been important changes since settlement, such as introduction of canal irrigation, the settlement soil classification may be revised and new rates worked out.

The parties may, however, be asked to suggest their own soil classification and rates on the basis of the principle crops grown in each field.

1. Pub. in Raj. Govt. Gaz., Part 4(ga), dated 1-8-1957.

(4) Where the parties consider the recorded rental as reasonable accurate, such rental may be taken as a basis of valuation.

(5) Where there is a likelihood of early enhancement of rent, such as when the construction of a canal is likely to convert dry land into one that is irrigable that fact shall be taken into consideration.

(6) In case in which the rent of each individual plot is not given in the Patwari papers, but only the whole rent of the holding is mentioned, the former may be worked out with the help of the settlement rates.

Rule 5. If the parties have accepted the recorded rental as the basis of valuation under sub-rule (4) of Rule 4, the valuation of the area to be partitioned shall be worked out on the basis of new rates evolved from the present rent, but if they have accepted the settlement rates with or without modifications under sub-rule (2) of Rule 4 such rates shall be applied on the lines indicated below—

- (a) Sir, Khudkasht or Hawala should ordinarily be valued as Khatedari tenancy. In exceptional cases the valuation of Sir, Khudkasht or Hawala against which rent is entered in the Patwari's papers may be based on such rent, if the latter be admitted by the party to be genuine.
- (b) Grain-rented land, if not situated in a precarious tract (cl. 3rd proviso to Sec. 175 of the Act), should be valued like Khatedari tenancy, but if situated in a precarious tract, the rate should be suitably reduced with reference to the special grain rates, if any, framed by the Settlement Officer for such tract.
- (c) Rent-free land if no service tenure (Khidmati) should be valued like Khatedari tenancy, but if given in charity (Khairati) it should be valued at a nominal rate to be agreed upon by the parties.
- (d) As between the superior proprietor and under-proprietor land may be valued on the basis of the actual rent payable by the under-proprietor to the superior proprietor minus the revenue, or in such manner as the parties may show to be fair.

Rule 6. Un-cultivated land (with the exception of new fallow or Parat Jadid which unless situated in a precarious tract should be valued like Khatedari tenancy) should ordinarily be divided on the basis of area in proportion to shares, but if such division impairs the fairness of the partition or is considered undesirable for any other reason, it may be divided on the basis of the valuation on the lines indicated below—

- (a) Old fallow (Parat Qadeem), culturable waste (Banjar), tanks, barren lands, village track etc. should ordinarily be valued at the rate of the soil class next lower to that in which it has been placed, but to suit particular cases, the rates may be modified according to the average annual income or other advantages derived from it, and to the possibility of its being brought under cultivation. If such land has been placed in the lowest soil class, the rate may be suitably reduced.
- (b) Grove-lands as defined in cl. (15) of Sec. 5 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955) should be valued according to the average annual income or other advantages derived therefrom.

**Rules to give effect to the provision of Sec. 203,
Estimate and levy of partition costs.**

Rule 7. The cost of partitions include—

- (1) The Court-fee stamp required for the application for partition;

- (2) The Court-fee stamps required as process-fee for the service of copies of the proclamation under Sec. 192, of the Act, on each of the recorded co-sharers who have not joined in the application;
- (3) The costs of copies filed by the applicant, including Court-fee stamps affixed thereto;
- (4) The cost of actual partition, including the cost of employing an amin or temporary assistant to the Patwari;
- (5) The costs of any survey found necessary during the proceedings and similarly of any boundary pillars, if any particular co-sharers have not been held separately liable for them;
- (6) The costs of fees for notices or processes, where these are specifically chargeable and recoverable;
- (7) The costs of the general stamps on the instrument of partition levied under Art. 45, of the Schedule I of the Indian Stamp Act, 1899;
- (8) The cost of the survey shall be calculated at Rs. 25/- per one hundred acres of total area and for the survey of the village-site at the rate of 8/- per acre or per one hundred houses, whichever is greater;
- (9) The cost of the actual partition shall be calculated on the basis of the pay of the Amin, or other Officer employed, that is to say in the case of an Amin, his actual pay and in the case of Patwari, his pay as Patwari plus 75 percent;
- (10) (1) The amount of the costs payable in a case shall be estimated when the preliminary order passed by the Collector under Sec. 198 of the Act becomes final and one-half of the costs so estimated shall be levied before an Officer is deputed to the work;
(2) When the case is complete, the amount shall be adjusted by levy or, if necessary refund of amount by which the costs already paid fall short to exceed the costs as finally determined;
(3) In the case of an application for partition which the parties are allowed to withdraw before partition is completed, the costs incurred in the case up to the withdrawal shall be paid by the parties. These costs shall be estimated and adjusted by levy or refund in the same manner as in a case which is carried to completion;
- (11) No costs whatever shall be levied except as provided by the preceding rules;
- (12) Upon the termination of the partition proceedings the costs of partition shall be adjusted between the parties in proportion to their shares unless expressly directed otherwise by such proceedings;

**Rules to give effect to the provisions of Sec. 223,
Division of estate between Government and estate holder.**

- (13) In submitting his proposals for the division of an estate between its holder and the Government under Sec. 223 of the Act, the Collector shall have regard to the provisions 208, 210, 211, 212, 213 of the Act and to Rule 3 to 6 of these Rules which shall, mutatis mutandis, apply to the division of an estate between its holders and the Government.