



भूमि संसाधन विभाग

DEPARTMENT OF LAND RESOURCES

MINISTRY OF RURAL DEVELOPMENT



लाल बहादुर शास्त्री राष्ट्रीय प्रशासन अकादमी

Lal Bahadur Shastri

National Academy of Administration

CENTRE OF EXCELLENCE

In Land Administration and Management

(An Initiative of DILRMP, Department of Land Resources,
Ministry of Rural Development, Government of India)

**B.N. Yugandhar Centre for Rural Studies,
Lal Bahadur Shastri National Academy of Administration,
Mussoorie - 248179, Uttarakhand, India**

LAND LAWS IN 6 STATES

UNDER CoE, BNYCRS, LBSNAA

**(A Study of Current Applicable Land Laws in the States of
Uttarakhand, Uttar Pradesh, Bihar, Jharkhand, West Bengal and Odisha)**

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CHAPTER-1

1. LAND-LAW: AN INTRODUCTORY GUIDE TO STATE REGULATIONS

“*Land reform is not just about ownership; it is about dignity, justice, and the removal of centuries-old exploitation.*”

– B.N. Yugandhar (implied from his work on rural development) ⁽¹⁾

1.1 Overview: This compendium aims to provide a concise overview of key sections from relevant acts pertaining to land administration and management across six states: Uttarakhand, Uttar Pradesh, Bihar, Jharkhand, Odisha, and West Bengal. The aim of this document is to target the specific sections which deal with the mutation of land records, sub-division and partition of land, maintenance of land records, urban land management and the conservation of land, under the different acts of the concerned States. The document has been drafted in view of the applicable prevalent land laws in the subject-States.

1.2 Introduction: India, that is, Bharat is a Union of States as per the *Article 1* of the Constitution of India. India's economy has long been rooted in agriculture, necessitating a well-structured revenue system to ensure smooth administration and sustained growth. To enhance land management, various land laws were introduced, providing a legal framework for efficient governance. Since land falls under the jurisdiction of individual states, each state has enacted its own key legislations to regulate land records and ensure effective management within its territory.

There is an old saying that the root of most disputes lies in **Jar (money), Joru (woman), and Jameen (land)**. This is where land laws play a crucial role. Land law governs the legal rights and responsibilities associated with ownership, usage, and management. Since land is an asset that is subject to succession and transfer, a well-defined legal framework has been established to regulate key aspects such as ownership, transfer, and usage. Unlike movable property, land is immovable as it is embedded in the earth. Therefore, specific rights have been formulated to define the **bundle of interests** that a person holds over a particular piece of land.

The concept of land plays a crucial role in geography, economics, law, and human civilization. It is more than just a physical surface—it holds cultural, economic, political, and environmental significance. Throughout history, numerous wars have been fought for the ‘Land’. Rulers expanded their territories by conquering new lands and marking their boundaries with flags. In earlier times, land administration was governed by the decree of the king. However, with the advent of democracy, land management and administration have come under the purview of established land laws. **Entry 18 of the State list** as enumerated under the Seventh Schedule of the Constitution specifies that “*Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization*”.

1.3 Mutation: Mutation refers to the process of updating land records to reflect the prevailing ownership or holding rights of the various parcels of land referred to in the land records. Accurate and

time bound mutation of land records aids in the identification of the person entitled to the rights and responsible for the duties associated with the land that he holds and thus forms an essential element in the administration and management of land in the state.

1.4 Sub-division and Partition of Land: Sub-division and partition of land refers to the process of breaking down a parcel of land into fragments and providing distinct identification to each resultant portion of land. The sub-division and partition of land may occur under two circumstances, namely:

- 1) Under the mandate of Law or Court.
- 2) Upon the application of the interested parties.

Furthermore, it is to be noted that the sub-division of the entire state into Divisions, Districts, Sub Divisions, Tehsils and Villages is done primarily for the purpose of better administration of the area concerned. Such sub-division of regions does not, in general, affect the rights and liabilities of the land holders.

1.5 Maintenance of Land Records: Land records form the core set of documents which delineate the legal relationship between the State and the holders of land as well as among the holders of land. Time bound preparation and update of land records is essential in order to ensure the smooth flow of land revenue and also to better target the developmental projects in the area.

1.6 Urban Land Management: Land management constitutes one of the primary functions of the State as Land, indeed, is the most valuable resource that State holds. Land is an asset upon which infrastructure can be built and capital can be applied. It is, therefore, necessary to form a scheme that ensures the optimum utilization of land available in the State. As the state is divided into rural and urban areas, the structure of governance differs accordingly. In urban areas the management of land is primarily governed by the Municipalities and the Town Planning Authorities.

1.7 Conservation of Land: Conservation of land refers to the responsible management and sustainable use of land resources to prevent degradation, maintain ecological balance, and ensure long-term productivity. It involves practices that protect soil, water, vegetation, and biodiversity while minimizing erosion, pollution, and habitat destruction. Conservation of land can be understood in two senses, namely:

- a) Protection of land from degradation or destruction.
- b) Protection of land from illegal activities and encroachment.

1.8 MAJOR LAND LAWS APPLICABLE IN THE 6 STATES

Sr. No.	NAME OF STATE	APPLICABLE LAWS (ACTS/RULES/MANUALS)
1.	ODISHA	<ol style="list-style-type: none"> 1. Orissa Survey and Settlement Act, 1958 2. Orissa Survey and Settlement Rules, 1962 3. Odisha Special Survey and Settlement Act, 2012

		<ol style="list-style-type: none"> Odisha Special Survey and Settlement Rules, 2012 Orissa Mutation Manual, 1962 Odisha Land Reforms Act, 1960 Odisha Land Reforms (General) Rules, 1965 Orissa Government Land Settlement Act, 1962 Orissa Town Planning & Improvement Trust Act, 1956 Orissa Municipal Act, 1950 Orissa Prevention of Land Encroachment Act, 1972
2.	WEST BENGAL	<ol style="list-style-type: none"> West Bengal Land Reforms Act, 1955 West Bengal Land Reforms Rules, 1965 West Bengal Municipal Act, 1993 Kolkata Municipal Corporation Act, 1980 Howrah Municipal Corporation Act, 1980 West Bengal Town and Country (Planning and Development) Act, 1979 West Bengal Public (Eviction of Unauthorized Occupants) Act, 1962
3.	UTTAR PRADESH	<ol style="list-style-type: none"> Uttar Pradesh Revenue Code, 2006 Uttar Pradesh Urban Planning and Development Act, 1973 Uttar Pradesh Avas Evam Vikas Parishadadhiniyam, 1965 Uttar Pradesh Bhoomi Evam Jal Sanrakshan Adhiniyam, 1963
4.	UTTARAKHAND	<ol style="list-style-type: none"> United Provinces/Uttar Pradesh Land Revenue Act, 1901 (as applicable to Uttarakhand) Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (as applicable to Uttarakhand) Uttarakhand Hills Consolidation of Holdings and Land Reforms Act, 2016 Uttarakhand Urban and Country Planning and Development Act, 1973
5.	BIHAR	<ol style="list-style-type: none"> Bihar Land Mutation Act, 2011 Bihar Land Mutation Rules, 2012 Bihar Tenancy Act, 1885 Bihar Special Survey and Settlement Act, 2011 Bihar Survey and Settlement Manual, 1959 Bihar Urban Planning and Development Act, 2012 Bihar Municipal Act, 2007 Bihar Soil and Water Conservation and Land Development Act, 1970 Bihar Public Land Encroachment Act, 1956
6.	JHARKHAND	<ol style="list-style-type: none"> Chota Nagpur Tenancy Act, 1908 Santal Parganas Tenancy (Supplementary Provisions) Act, 1949 The Bihar Land Reforms Act, 1950 Bihar Tenants Holdings (Maintenance of Records) Act, 1973 Santhal Parganas Settlement Regulation, 1872 Bihar Tenancy Act, 1885 Jharkhand Municipal Act, 2011 Jharkhand Public Land Encroachment Act, 1956 Estates Partition Act, 1897

CHAPTER-2

2. LAND ADMINISTRATION AND MANAGEMENT IN THE STATE OF BIHAR

“Land reform is not only a difficult legal challenge but also highly political, especially when it attempts to redress historic inequalities in land ownership.”

- Robert Home ⁽²⁾

The administration and management of land in the State of Bihar is spread over various legislations and their relevant rules. The situation is further complicated by the fact that the state of Jharkhand was carved out of Bihar in the year 2000. Some legislation that was applicable in both the States are repealed in one and retained in the other which reduces the clarity on subject. However, the applicable provisions governing the essential aspects of land administration and management in the State of Bihar are being provided below.

2.1 MUTATION OF LAND RECORDS

In the State of Bihar, since a special Act with the name ‘**The Bihar Land Mutation Act, 2011**’ has been enacted, therefore as per the mandate of law which prescribes special laws to prevail over general laws on the subject, this enactment is complemented by the **Bihar Land Mutation Rules, 2012**.

The Bihar Land Mutation Act, 2011 has been divided into nine chapters. **Section 2** under **Chapter I** of the Act defines Mutation and lists out the various means/instruments by which mutation of land records is to be carried out. **Chapter II** of the Act deals with the ***Process of filing Mutation Petitions*** and provides under **Section 3** that such petitions have to be filed before the Circle Officer within 90 days of acquisition of interest in the land. **Rule 3** of the **Mutation Rules, 2012** prescribes how a petition for mutation is filed and what documents are required for mutation petition. **Chapter III** mandates the intimation to Circle Officer by the responsible authorities in the case of registered deeds etc. **Chapter IV** then provides for the Enquiry and Report in Mutation cases under **Section 5** to be read with **Rule 5**. **Chapter V** of the Act is related to disposal of mutation cases and provides under **Section 6** that Circle Officer has to dispose of the matter after considering relevant objections in the case read with **Rule 6**. **Chapter VI** finally deals with Appeals and Revisions under **Sections 7 and 8** respectively.

2.2 SUBDIVISION AND PARTITION OF LAND

The law governing the process of partition of land in the state of Bihar is the **Bihar Tenancy Act 1885**. **Chapter V** of the Act deals with Occupancy Raiyats and their various rights and duties. **Section 25A** of the Chapter deals with the division of holding by partition and distribution of rent in the prescribed form and manner. It provides that an occupancy holding can be partitioned in the following two circumstances:

- A) By an order of a Court.
- B) Otherwise (application to the Collector, consolidation etc.).

Section 88A of the Act prescribes that when a portion of a tenure or holding is transferred by sale, exchange or gift, the division shall be made accordingly and it will binding on the landlord.

The provision makes the division of land binding on the landlord if such division is made according to the Partition Order. The process that follows partition of holding is that of distribution of rent and for this the empowered authority is the Collector.

2.3 MAINTENANCE OF LAND RECORDS

In the State of Bihar, the legislations covering the aspect of maintenance of land records are:

- a) The Bihar Tenancy Act, 1885
- b) Bihar Survey and Settlement Manual, 1959
- c) The Bihar Special Survey and Settlement Act, 2011
- d) The Bihar Special Survey and Settlement Rules, 2012

The fundamental framework for the preparation and updation of land records can be gathered from the provisions of the **Bihar Tenancy Act, 1885**. **Chapter 10** of the Act deals with Record of Rights and Settlement of Rents. **Section 101** empowers the State Government to direct the conduct of a survey and preparation of record-of-rights. **Section 103A** of the Act then talks about the preliminary publication, amendment and final publication of record of rights while **Section 103B** prescribes the presumption about the correctness of such record-of-rights. Resultantly, **Section 104** of the Act provides for the settlement of rents and preparation of settlement rent roll when to be undertaken by Revenue Officer. **Section 104F** provides for the incorporation of this settlement roll into the record of rights so prepared. **Section 104G** provides the right to appeal or revision in the matter. Importantly, **Section 108A** allows the correction of mistakes in record-of-rights by the Collector or empowered Revenue Officer.

In terms of Modern technology, computerization of land records which is one of the objectives of the DILRMP, the State of Bihar has laid down the significant legislations i.e., the **Bihar Special Survey and Settlement Act, 2011** along with the **Rules of 2012**. **Section 4** of the Act read with **Rule 5** prescribes the mandate for Re-organizing the on-going survey operations whereas **Section 5** read with **Rule 6** prescribes that a land owner may submit a self-declaration of plots owned/held by him in the concerned Anchal Office/Camp Office. **Section 6** of the Act read with **Rule 7** mandates the Kistwar (*measurement and plotting of land according to cultivation*) of a revenue village by modern technology. **Section 14** of the Act establishes the maintenance of records in digital form whereas **Rule 21** talks about the preparation of technical guidelines.

2.4 URBAN LAND MANAGEMENT

In the state of Bihar, the management of urban land is primarily the function of Municipalities and Town Planning Authorities. The major legislations dealing with the subject are:

- a) The Bihar Urban Planning and Development Act, 2012
- b) The Bihar Municipal Act, 2007

The Bihar Urban Planning and Development Act, 2012 is enacted with the objective of achieving planned growth and development of urban areas and rural areas that have potential of urbanization. Importantly, **Chapter IV** of the Act deals with preparation of land use map and land use register. **Section 18** provides that every Planning Authority may by an Order determine, prepare a present Land Use Map and a Land Use Register while **Section 19** talks about their publication. **Chapter V** then delineates the provisions relating to Development Plans. **Section 21** mandates the preparation of such development plan while **Section 22** lists out the contents of such plans which include land use pattern, commercial-residential bifurcation and associated amenities etc. **Section 28** provides for the publication of such plans. **Chapter VI** establishes the Authority of the Development Plan in order to control and use of land. **Chapter VII** then talks about the preparation of Area Development Schemes which further augment the State in the better management of urban land.

The Bihar Municipal Act, 2007 is enacted to further the objective of democratic decentralization and it goes without saying that such decentralization applies in the case of land as well. **Chapter XXI** of the Act deals with Urban Environmental Infrastructure and Services. **Chapter XXXIII** then deals with Development Plans *via* the District Planning Committees and the Metropolitan Planning Committees. **Chapter XXXIV** provides the provisions for Improvement Schemes. **Chapter XXXVI** regulates Buildings. Needless to say that all these chapters mention the instruments through which the management of urban land is carried out. **Chapter XL** deals with the development of industrial townships in urban areas.

2.5 CONSERVATION OF LAND

In the State of Bihar, the enactments meant to conserve the land in the state are:

- 1) Against natural degradation:
 - 1.1) The Bihar Soil And Water Conservation And Land Development Act, 1970.
 - 1.2) The Indian Forest (Bihar Amendment) Act, 1989.
- 2) Against encroachment
 - 2.1) The Bihar Public Land Encroachment Act, 1956

The Bihar Soil And Water Conservation And Land Development Act, 1970 begins by providing, under **Chapter III**, for the constitution of Board and District Committees as the empowered authorities to execute the mandate of the enactment. **Chapter IV** provides for the preparation of Soil and Water Conservation and Land Development Plans and importantly, **Section 9** lists out the matters for which

such plans are to provide for. **Sections 10 and 11** provide for the preparation and publication of draft plans respectively. **Section 13** prescribes for the sanction of such plans while **Section 14** provides for the correction of errors. **Chapter V** then deals with the execution of the plans so formulated and **Chapter VI** provides for the Penalties in case of dereliction.

The Bihar Public Land Encroachment Act, 1956 is the primary legislation that deals with the protection of state land from untoward human activities and was enacted to remove and prevent encroachment on public lands. **Section 3** of the Act empowers the Collector to initiate proceeding based upon an application by any person or upon information from any other source and such proceeding has to be notified to the Defendant through usual means. **Section 4** allows the making of defence while **Section 5** provides for the Collector to hear the matter. The Collector is to issue the final order under **Section 6**. **Section 6A** allows the State Government to compound such matters. **Section 7** empowers the Collector to get the encroachment removed and recover the cost thereof if the person ordered under Section 6 fails to comply. **Section 8** provides that the manner of disposal of proceedings under the Act shall be summary in nature. **Sections 11 and 13** provide for Appeals and Review respectively. Finally, **Section 16** protects the Orders issued under the Act from being challenged in Civil Courts.

CHAPTER-3

3. LAND ADMINISTRATION AND MANAGEMENT IN THE STATE OF WEST BENGAL

“Land tenure is key to protecting land rights. The Central and State governments should have accessible systems for registering, tracking and protecting land rights, including customary rights and common property resources.”

– M.S. Swaminathan ⁽³⁾

In the State of West Bengal, the legal provisions for land administration and management are primarily governed by the **West Bengal Land Reforms Act, 1955** read with the **West Bengal Land Reforms Rules, 1965** in the current state of affairs.

3.1 MUTATION OF LAND RECORDS

The **West Bengal Land Reforms Act, 1955** is a key piece of legislation related to the transfer and ownership of agricultural land in the State whereas the **West Bengal Land Reforms Rules, 1965** prescribes the manner and procedures. The Act provides the legal framework for the transfer of ownership of agricultural land and regulates land use, distribution, and land ceiling.

Mutation is the process by which the changes in the ownership of land are updated in the government's land records. The mutation process is crucial for the proper documentation of land ownership, which helps resolve disputes and facilitate transactions like sales, mortgages, and inheritance. **Chapter VII** of the aforesaid Act deals with the Maintenance of record-of-rights. The Legal provision for updating the mutation of land records is provided under **Section 50 (a)** and **Rule 21**. **Rule 21** prescribes the manner for maintaining of record-of-rights. The rule says that the prescribed authority i.e. Revenue Officer, especially empowered by the State Government, after receiving the all papers containing the original orders passed in mutation and other cases or authenticated copies of such orders shall make necessary connections in the record-of-rights and shall subscribe his dated signature to such corrections noting the authority under which the corrections have been made and shall also inform the concerned parties.

3.2 SUBDIVISION AND PARTITION OF LAND

In West Bengal, the legal provisions for land subdivision and land partition are governed by a combination of state-specific laws, such as the **West Bengal Land Reforms Act, 1955** and the **West Bengal Land Reforms Rules, 1965**. These provisions address the division of land among co-owners or legal heirs and regulate the manner in which land can be subdivided and partitioned, especially for agricultural and non-agricultural purposes.

Section 14 of **Chapter II** of the **West Bengal Land Reforms Act, 1955** prescribes the provisions for partition of holding among co-sharer raiyats (a person or an institution holding land for any purposes whatsoever). The Partition may be made either by a registered instrument or a decree or order of a court. **Rule 10** of the **West Bengal Land Reforms Rules, 1965** unfolds that Notice to be served on the prescribed authority under sub-section (2) of section 14 shall be in **Form No. 6** whereas **Rule 11** ascertain process fee payable for transmission of the registered deed of partition to the prescribed authority under subsection (2) of section 14. Under **sub-rule 7** of **Schedule A** of the **West Bengal Land Reforms Rules, 1965**, it says that where the land has been partitioned, the Revenue Officer may assign such separate plot numbers as may be needed for the purpose.

3.3 MAINTENANCE OF LAND RECORDS

In **West Bengal**, the process of **updating and maintaining the land records** is crucial for maintaining the accuracy and legality of land ownership. The provisions under the **West Bengal Land Reforms Act, 1955** and the **West Bengal Land Reforms Rules, 1965** provide a framework for keeping the **Record of Rights (RoR)** called **Khatian** and other land-related documents up to date. **Section 51** grants the State Government to make an order directing that record-of-rights in respect of any district or part of a district be revised or prepared by a Revenue Officer in accordance with the provisions of **Chapter VIIA- 'Preparation or revision of record-of-rights'** and such rules as may be made by the State Government in this behalf. **Section 51A** empowers the Revenue Officer to publish a draft of the record so revised or prepared in the prescribed manner and for the prescribed period after receiving and considering the objections made whereas **Section 51B** prescribes that any Revenue Officer specially empowered by the State Government may, on an application or on his own motion, at any stage of revision or preparation of the record-of-rights, revise or correct any entry in such record-of-rights after giving the persons interested an opportunity of being heard and after recording the reasons thereof. **Rule 22** of the **West Bengal Land Reforms Rules, 1965** provides the procedure for revising or preparing record-of-rights under Chapter VII in the manner laid down in **Schedule A**. **Clause 1** of the **Schedule A** determines the processes by which revision of records-of-rights are made. The following processes are as:

- (i) Traverse survey;
- (ii) Cadastral survey;
- (iii) Preliminary record writing (or Khanapuri);
- (iv) Local explanation (or Bujharat);
- (v) Attestation;
- (vi) Publication of the draft record-of-rights;
- (vii) Disposal of objections;
- (viii) Preparation and publication of the final record-of-rights.

3.4 URBAN LAND MANAGEMENT

In **West Bengal, Urban Land Management** is governed by a combination of policies, legal provisions, and acts that regulate land use, urban planning, and land development in cities and towns. The State's Urban Land Management system ensures the orderly development of urban areas, the protection of public interest, and the management of land resources.

(1) The West Bengal Municipal Act, 1993: The object of this Act is to consolidate and amend the law relating to urban municipal affairs in West Bengal.

- **Section 7:** State Government has power to classify municipal areas from Group A to E.
- **Section 8:** State Government has power to divide municipal areas into wards.
- **Section 9:** State Government has power to abolish or alter the limits of a municipal area.
- **Section 10:** State Government has power to include certain dwelling house, manufactory, etc., within a particular municipal area.
- **Section 74:** The Board of Councilors has power to acquire, by gift, purchase or otherwise, and hold the movable and immovable property within or outside the limits of the municipal area.
- **Section 76:** The Board of Councilors has power to acquire the property by agreement, exchange, lease, grant, etc.
- **Section 77:** It provides provision for compulsory acquisition of land. As per the Section, the State Government, at the request of the Board of Councillors, proceed to acquire any land under the Land Acquisition Act, 1894 for any public purpose.
- **Section 78:** It provides that the Chairman appointed by the State Government shall perform the functions of the Collector for acquisition.
- **Section 171:** The Board of Councilors has power to acquire lands and buildings for public streets, public parking places and transportation terminals.
- **Section 174:** The Board of Councilors has power to take possession of land situated within street alignment or covered by projecting buildings.
- **Section 185** penalizes the person removes any earth, sand or other material form, or makes any encroachment in any street or open space which is not a private property.
- **Section 188:** The Board of Councilors has power to give the name and number of streets and also numbering of premises.
- **Section 193:** Before utilizing, selling, leasing out or otherwise disposing of any land or building as plots for construction of buildings, the owner shall send to the Chairman a written application with a layout plan of the land showing the street or streets giving access to the plots into which the land may be divided and connections of such street or streets with any existing public or private streets with all the prescribed information.
- **Section 202:** The Board of Councilors has power to prevent use of premises for specified purpose in particular area for environmental reasons.
- **Section 286:** The Board of Councilors has power to define and alter limit of *bustee* or slum.

- **Section 287:** The Board of Councilors, subject to the approval of the State Government, has power to prepare improvement schemes for any *bustee* or slum.
- **Section 289:** The Board of Councilors has power of management of areas of common uses and facilities.
- **Section 297:** The Municipality has power to prepare a master plan for upgradation of the human settlements within its region whenever an urban development region is declared, by notification, by the State Government subject to the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979.
- **Section 301:** All planning and developmental activities in an Urban Development Region shall be carried out under the overall supervision and control of the Board of Councillors of the concerned municipality.
- **Chapter XX:** It provides the provisions for the Municipalities in the hill areas.
- **Chapter XXI:** It provides the provisions for the Public Safety and Nuisances.
- **Section 373 & 374:** The Board of Councilors has power to close or re-open the burning or burial grounds for the public purpose.
- **Section 388:** The Board of Councilors has power to enter the land or adjoining land in relation to any work.

(2) The Kolkata Municipal Corporation Act, 1980: This Act is applicable to the Kolkata region only. The legal provisions are related to the municipal affairs of Kolkata.

(3) The Howrah Municipal Corporation Act, 1980: This Act is applicable to the Howrah region only. The legal provisions are related to the municipal affairs of Howrah by the establishment of a Municipal Corporation.

(4) The West Bengal Town and Country (Planning and Development) Act, 1979: The objective of this Act is to provide for the planned development of rural and urban areas in West Bengal and for matters connected therewith.

- **Section 9:** The State Government has power to declare, by notification, any area in West Bengal to be a Planning Area, their amalgamation, sub-division and inclusion of any area in Planning Area.
- **Section 13:** A Planning Authority, subject to the approval of State Government, has power to prepare a present Land Use Map, to prepare and enforce an outline and detailed development plan.
- **Section 28:** Every Planning Authority or Development Authority shall prepare a present Land Use Map and a Land Register in such form as the concerned Authority may think fit indicating the present use of lands in the Planning Area.
- **Chapter VI** is dedicated for the preparation of development plans and procedure for their statutory approval.

- **Section 31:** A Planning Authority or Development Authority shall prepare an Outline Development Plan for the Planning Area and forward a copy to the State Government.
- **Section 32:** A Planning Authority or Development Authority shall prepare and forward to the State Government a Detailed Development Plan for the Planning Area or any of its parts.
- **Section 43:** The State Government has power to acquire any land required, reserved or designated in a Development Plan or a Development Scheme to be land needed for a public purpose under the Land Acquisition Act, 1894.
- **Section 57:** A Development Authority, after the approval of the development plan by the State Government, may prepare one or more development schemes for the area within its jurisdiction.
- **Section 60:** It has provision for reconstitution of plot scheme.
- **Section 66:** The Development Authority in the interest of the public shall make an application to the State Government and then give a notice in the prescribed manner to the person interested in the land, and shall take possession of the land in advance of development scheme.
- **Section 73:** The Development Authority, after publication of the notice of the scheme, shall proceed to define, demarcate and decide the areas allotted to, or reserved, for the public purpose.

3.5 CONSERVATION OF LAND

The **conservation of government land** in **West Bengal** is regulated by a combination of legal provisions that aim to prevent encroachment, misuse, and unauthorized occupation of government land. These provisions ensure that government land is preserved for public use and development purposes, safeguarding it from illegal encroachments and unauthorized transfers.

The West Bengal Public (Eviction of Unauthorised Occupants) Act, 1962: This Act was passed to provide for the speedy eviction of unauthorized occupants from public lands.

- **Section 3:** The Collector is of opinion that the public land is in the unauthorised occupation of any person or persons, the Collector shall issue a notice in such form and containing such particulars as may be prescribed calling upon all person concerned for taking necessary action.
- **Section 4:** The Collector has power to evict the person (s) in unauthorized occupation from public lands.
- **Section 5:** The Collector has power to enforce delivery by evicting unauthorized occupants in respect of any public land or part thereof.
- **Section 6A:** The Collector may, after giving 14 days' notice to the person from whom possession of the land has been taken, remove or cause to be removed or dispose of any property by public auction on public land.

CHAPTER-4

4. LAND ADMINISTRATION AND MANAGEMENT IN THE STATE OF UTTAR PRADESH

“The land belongs to the people. It must serve them all.”

– Aldo Leopold ⁽⁴⁾

4.1 MUTATION OF LAND RECORDS

The Legal Provisions related to the Land Mutation can be ascertained under **Chapter V of the Uttar Pradesh Revenue Code, 2006** (hereinafter referred as ‘Code’) for the State of Uttar Pradesh. **Section 31** of the Code empowers the Collector to maintain Record of Rights. **Section 33** of the Code prescribes the Mutation process in cases of succession. It governs the process of making or updating the record of rights by the Revenue Inspector after exercising the procedure established by the law. **Section 35** of the Code extends the mutation process in case of succession or transfer followed by the Section 33 and 34 of the Code. It gives provision for the inquiry and proclamation to be issued by the Tahsildar. Additionally, **Section 35** of the Code outlines the procedure for reporting mutations and making necessary entries in the record of rights, ensuring the proper documentation and acknowledgment of ownership changes. In terms of Revenue Court, if a mutation case arises then Tahsildar has power to deal with the matter in its original jurisdiction and appeal of Tahsildar Court shall be made to Sub-Divisional Officer (SDO). The hierarchy may be perceived under the **third Schedule** of the Code.

4.2 SUBDIVISION AND PARTITION OF LAND

In terms of the Land Sub-division, the State is divided into revenue areas comprising of divisions consisting of two or more districts further divided into Tahsils and further divided into parganas consisting of two or more villages. This is the structural formation of a State and the same can be perceived under **Section 5 & 6** of the Code. **Section 20** of the Code prescribes the provision for fixation and demarcation of boundary marks. The purpose of fixing and demarcating of boundary is to maintain the tenure-holder’s ownership and to mitigate the disputes. If any dispute arises regarding boundary demarcation, the SDO under **Section 24** of the Code shall fix the boundaries on the basis of actual possession where the boundaries have been revised in accordance with the provisions of the Uttar Pradesh Consolidation of Holdings Act, 1953.

Section 116 of the Code provides the legal remedy to the Bhumidar for instituting a suit before the Revenue Court of Assistant Collector for the division of the holding of which he is a co-sharer. **Section 117** of the Code prescribes the duty of Court in suits for division of holding. This section also clarifies about the payment of the land revenue by joint liability before passing the final decree.

Provisions under CPC: During Execution process of a decree passed by the Civil Court, **Section 54 of the Code of Civil Procedure, 1908** (hereinafter referred as ‘CPC’) prescribes the law related to the partition of an undivided estate assessed to the payment of revenue to the government, or for the separate possession of a share of such an estate, the partition of the estate or the separation of the share shall be made by the Collector or any gazetted sub-ordinate to the Collector deputed by him in this behalf.

4.3 MAINTENANCE OF LAND RECORDS

Chapter V of the Code lies down the provisions of Maintenance of Village Records. **Section 29** of the Code empowers Collector for the preparation and maintenance of a register consisting list of all villages in his district and the register shall be revised in every five years or at such longer intervals as may be prescribed followed by **Section 30** of the Code which prescribes about Maintenance of Map and Field Book (Khasra). **Section 32** of the Code makes provision for correction of records. This Section provides to make all the changes in the record of rights (Khatauni), the field book (Khasra) and the map. The Correction shall be made by the Sub-Divisional Officer, the Tahsildar, or the Revenue Inspector subject to the control of the Collector whereas the Order for correction in map shall be made by the Collector only. The entries made in the record of rights (Khatauni) as per the provisions of the Code shall be presumed to be true under **Section 40** of the Code. **Section 41** of the Code mandates the provision for a consolidated pass-book, also known as ‘*Kishan Bahi*’, for all the holdings held by a tenure-holder in the district. In the case of joint holding, co-tenure holders may apply for Kishan Bahi. This Kishan Bahi is responsible for the advancement of the loan to a tenure holder. Under **Section 42** of the Code, it is the duty of every person to furnish or produce information or documents needed for the correct compilation or revision of record or register.

Chapter VI of the Code deals with the Revision of Village Records. This very chapter of the Code may be held responsible in terms of updating the land records in the rural areas in the present scenario. **Section 43** specifies that State Government shall publish a notification for re-survey or a revision of records for any district or other local area under survey operation or record operation as per the case. The Record Officer shall proceed with the revision processes subject to the procedure of revision of map and records as prescribed under **Section 49** of the Code during record or survey operation, as the case may be, under **Section 46 and 47** of the Code. **Section 50** of the Code empowers the Assistant Record Officer to confirm or amend the record of rights (Khatauni) after the revision of map or records in accordance with Section 49. The Assistant Record Officer shall thereafter prepare, for each village in the area under the record or survey operation, the record of rights (Khatauni) as per the **Section 51** of the Code.

4.4 URBAN LAND MANAGEMENT

The Land Management for the Urban Area in the State of U.P. is being dealt under the **Uttar Pradesh Urban Planning and Development Act, 1973** (hereinafter referred as ‘Act’). This Act provides a

structured approach to urban planning and land management in the State. **Section 3** empowers the State Government to declare any area as a '*development area*' for planned urban growth, while **Section 4** establishes Development Authorities responsible for implementing these plans. **Section 7** mandates the preparation of development plans to regulate land use by way of acquiring, holding, managing, and disposing of land and other property to carry out building, engineering, mining and other operations. To ensure controlled development, **Section 14** requires government departments and local authorities to obtain approval from the Development Authority before initiating any projects. **Section 15** allows Development Authorities to levy fees for constructing essential facilities like roads, drains, and water supply systems. Under the aforesaid Act, **Chapter VI** provides the provisions for Acquisition and Disposal of Land. **Section 17** of the Act stipulates about the compulsory acquisition of land for the purpose of development and any other land whereas **Section 18** empowers the concerned local authority for disposal of land by way of sale, exchange or lease or by the creation of any easement, right or privilege or otherwise followed by the **Section 19** for '*nazul lands*'. **Section 28** of the Act grants authorities the power to stop unauthorized development and to seal the same under **Section 28-A**.

The Uttar Pradesh Avas Evam Vikas Parishadadhiniyam, 1965 (hereinafter referred as 'Adhiniyam') provides a legal framework for urban housing and land management. This Act facilitates the development of housing schemes, the acquisition of land for residential projects, and the overall management of urban infrastructure. It enables the Housing and Development Board to construct, regulate, and allocate housing units, ensuring the availability of affordable housing. **Chapter III** of the Adhiniyam provides a legal framework for urban housing and land management in the State. It establishes the Housing and Development Board, responsible for land acquisition and development to facilitate housing projects. **Section 38** of the Adhiniyam grants power to the Board i.e., "*Uttar Pradesh Avas Evam Vikas Parishad*" to make declaration to retain the land or building vested in local authority for the purpose of housing or improvement scheme. Whereas **Section 45** of the Adhiniyam makes provision for transferring of land by the State Government to Board for the purpose of scheme or management. **Section 55** of the Adhiniyam gives power to the Board to acquire any land under the provisions of the Land Acquisition Act, 1894 for any of the purposes of this Adhiniyam, whereas **Section 56** grants powers to the Board for dispose of land by means of agreement, lease, purchase, exchange, retain, sell or otherwise.

4.5 CONSERVATION OF LAND

For conservation of all the government lands in the State of Uttar Pradesh, **the Uttar Pradesh Bhoomi Evam Jal Sanrakshan Adhiniyam, 1963** (hereinafter referred as 'Conservation Act') was passed under U.P. Act No. 16 of 1963. This Act was passed to amend and consolidate the law relating to the conservation and improvement of soil and water resources in the Uttar Pradesh. Under **Section 6** of the Conservation Act, a Zila Bhoomi Evam Jal Sanrakshan Samiti shall be established and the Collector shall be the Chairman. The functions of the Zila Samiti are incorporated under **Section 7** of the Conservation Act which describes the steps for conservation of land and water. **Chapter III** of the Conservation Act prescribes the provisions for preparation of soil and water conservation plan. **Section**

14 of the Conservation Act grants power to the Collector by directing through Order to the Bhoomi Sanrakshan Adhikari to take temporary possession of the land for executing the plan for conservation of soil or water. **Section 19** mandates to make progress report by Bhoomi Sanrakshan Adhikari to Zila Samiti. **Section 20** of the Conservation Act grants a duty to the Bhoomi Sanrakshan Adhikari to prepare a statement in the prescribed form showing the rights and liabilities of the beneficiaries and forward it to the Collector who shall on the basis of the statement get the entries made in the relevant village records and maps maintained by the Revenue Department. Furthermore, the measures relating to soil and water conservation have been incorporated under **Second Schedule** of the Conservation Act.

Chapter XV of the Uttar Pradesh Revenue Code, 2006 describes the provisions for penalties in cases of encroachment, damages of boundary marks, illegally cutting of trees and not furnishing required statement or information. **Section 226** of the Code penalises the person who encroaches or obstructs any public road, path or common land of a village or who fails to comply with any order or direction made by SDO or the Tahsildar whereas **Section 227** of the Code mandates for recovery of damages for destroying or removing any boundary marks lawfully erected. The trees are the heritage of the nation. In order to conserve this very heritage, **Section 228** provides the penalty for cutting or removing trees illegally. The Collector is empowered under this section to direct the confiscation of any tree in this regard. **Section 229** has the provision of penalty, in case, a person is not furnishing any information or statement lawfully required or obstructs the Collector or any other revenue officer in taking possession of any land in accordance with the provision of the U.P. Revenue Code, 2006.

CHAPTER-5

5. LAND ADMINISTRATION AND MANAGEMENT IN THE STATE OF UTTARAKHAND

“The land belongs to the future”

-Willa Cather⁽⁵⁾

In the State of Uttarakhand, all laws and acts were adopted from Uttar Pradesh at the time of its separation. However, very few acts have since been modified to incorporate specific changes.

5.1 MUTATION OF LAND RECORDS

In the State of Uttarakhand, the process of land mutation is the official recording of changes in land ownership and it is primarily governed by the following Acts:

- (1) **The United Provinces / Uttar Pradesh Land Revenue Act, 1901 (as applicable to State of Uttarakhand):** This Act (hereinafter referred as ‘Act’) has been repealed in the State of Uttar Pradesh but is applicable in the State of Uttarakhand for the management of land records in the State. It provides guidelines for land record management and dispute resolution. **Section 31** mandates that the Collector shall prepare and maintain a list of all villages and such register shall be revised in every five years whereas **Section 32** prescribes for record-of-rights for each village under which the particulars of all persons cultivating or otherwise occupying land shall be specified. **Section 33** assigns the Collector to maintain and update the annual register, including issuing ‘*Kisan Bahi*’ (Passbooks) for landholders i.e., Bhumidar, whether with or without transferable rights, Asami or Government Lessees. This Kisan Bahi shall contain such extract from the annual register relating to all holdings of which he is so recorded (either solely or jointly with others). **Section 34 and 35** of the Act are the key sections for the mutation procedure. **Section 34** mandates the provision for reporting of possession of any land by succession or by transfer, including a family settlement or an exchange of holding or part under Section 161 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, to the respective Tahsildar of the Tahsil. **Section 35** empowers the Tahsildar to make inquiry on receiving a report of succession or transfer under Section 34 and accordingly direct the annual registers to be amended. State Government has power to prescribe fees for mutation under **Section 37** of the Act. **Section 39** allows corrections in the register and **Section 40-41** resolves disputes based on possession or survey maps ensuring dispossessed parties are reinstated within three months. **Section 46** mandates individuals to provide necessary information for correct record-compilation. All the entries made in the record-of-rights shall be presumed to be true as per the **Section 57** of the Act.
- (2) **Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (as applicable to State of Uttarakhand):** This Act (hereinafter referred as ‘Act of 1950’) regulates land use, payment of land revenue and transfer regulations. When Uttarakhand was carved out of Uttar Pradesh, the Act of 1950

was adapted and applied to the new state with necessary modifications. Uttarakhand has enacted its own amendments to the original UP Zamindari Abolition Act to suit its unique land ownership patterns and regulations. This Act was formulated to reform the law relating to land tenure consequent on such abolition and acquisition and to make provision for other matters connected therewith. **Chapter VIII** of the Act of 1950 keeps provisions of Tenure and tenure-holdings. **Section 129** differentiates about classes of tenure i.e., Bhumidhar with transferable and non-transferable rights, asami and Govt. lessee. **Section 142** gives rights to the Bhumidhar to have exclusive possession of all land in his holding whereas **Sections 143 and 144** allow bhumidhars to use his holding for industrial or residential purposes and for agricultural purposes respectively. Such usage of land goes under the enquiry to be held by the Assistant Collector-in-charge of the sub-division and after due enquiry, a declaration is made to that effect. **Section 145** has special provision for registering the declaration, free of cost in the manner prescribed, made under Sections 143 and 144. **Section 154** restricts land transfers exceeding 12.50 acres with exemptions for co-operative societies, public interest institutions, and specific groups. Non-tenure holders can purchase limited land for residential or specified uses with government sanction subject to usage compliance within two years. **Section 161** prescribes the provision for exchange of land by one bhumidhar to other bhumidhar with the permission of an Assistant Collector. **Section 164** of the Act of 1950 clarifies that any transfer of any holding or part made by a bhumidhar by way of transfer of possession for securing any payment of money advanced or to be advanced by way of loan and existing or future debt, such transfer shall be deemed as Sale. Unauthorized transfers or violations lead to void transactions and penalties under **Section 167**. **Section 242** equips that all the land held by bhumidhar is liable to the payment of land revenue to State Government whereas **Section 245** provides some exceptions for which land revenue shall not be computed. Moreover, **Section 246** ascertains the procedure for determination of land revenue. For collection of land revenue, the State Government under **Section 276** by general or special order charge a Land Management Committee with the duty of collecting and realising the land revenue and such other dues on behalf of State Government.

5.2 SUBDIVISION AND PARTITION OF LAND

(1) The United Provinces / Uttar Pradesh Land Revenue Act, 1901 (as applicable to State of Uttarakhand): In terms of the division of the land, the State Government, under **Section 11** of the Act, has power to create, alter and abolish divisions, districts, Tahsil and sub-divisions whereas the Collector, under **Section 21** of the Act, has power to form and alter Lekhpal's halkas. In terms of possession of the land, the Collector or the Tahsildar has power to ascertain by summary inquiry to settle the disputes on the basis of best entitlement to the property and shall put such person in possession while exercising the powers provided under **Section 40** of the Act. In terms of the partition of the land or settlement of boundary disputes, **Section 41** of the Act prescribes the law that all disputes regarding boundaries shall be decided on the basis of existing survey maps and in absence of survey maps, it shall be fixed on the basis of actual possession. The Collector has power to decide the lawful possession of the property under this Section. Under **Section 29** of the Act, it shall be the duty of every tenure-holder to maintain and keep the permanent boundary marks lawfully erected on his field and it shall be the duty of the

Gaon Sabha to maintain permanent boundary marks lawfully erected on the village situate within its jurisdiction. The Board of Revenue or Commissioner, under **Section 191** of the Act, has power to transfer any case of partition to any other Court or Officer competent to deal therewith.

(2) Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (as applicable to State of Uttarakhand): It governs land tenures, partitions, and reforms. **Section 15** of the Act of 1950 provides that an intermediary holding a land in his personal cultivation in any estate or estates belonging to him jointly with others, the Prescribed Authority shall proceed to demarcate the land proportionate to the share of such intermediary. **Section 123** provides for the settlement of house sites built on tenure-holder land, with specific cut-off dates for ownership claims. **Section 175** provides that in the case of a co-widow, or a co-tenure-holder, who dies leaving no heir entitled to succeed under the provisions of this Act, the interest in such holding shall pass by survivorship. **Section 176** provides remedy to the bhumidhar to sue for division of his holding whereas **Section 177** put forwards the provision for one suit for division of several holdings.

(3) The Uttarakhand Hills Consolidation of Holdings and Land Reforms Act, 2016: It is well-known that the State of Uttarakhand is a combination of plain and hilly areas. For partition of joint-holdings in hilly areas as defined under this Act, the Assistant Consolidation Officer or the Consolidation Officer while exercising the powers under **Section 9-A** may settle the disputes concerning partition of joint-holdings. **Section 9-C** of this Act clarifies that the partition of joint-holdings shall be effected on the basis of shares/specific plots.

5.3 MAINTENANCE OF LAND RECORDS

(1) The United Provinces / Uttar Pradesh Land Revenue Act, 1901 (as applicable to State of Uttarakhand): **Chapter IV** of the Act covers the provisions for Revision of Maps and Records. This Chapter of the Act enfolds the updating provisions of land records in the State of Uttarakhand. The State Government under **Section 48** of the Act may publish a notification for revision or re-survey in any district and such area shall be held to be under record or survey operations. The record operations or the survey shall be conducted by the Record Officers as prescribed under **Section 49** of the Act. As per **Section 28** of the Act, the Collector shall maintain a map and field-book of each village in his district and shall cause annually to be recorded therein all changes in the boundaries of each village or field and shall correct any errors in such map or field-book. **Section 52** of the Act empowers the Record Officer to prepare the records in the map and field-book for each village under survey operations. **Section 53** of the Act further empowers the Record Officer for preparation of new record of rights for each village in consonance with Section 32 and 33 of the Act. As per the **Section 54** of the Act, the Record Officer shall cause to be carried out survey, map correction, field test and verification of current annual register in accordance with the procedure prescribed. The Record Officer shall make undisputed entries and disposal of disputes regarding entries in the annual register. This Section of the Act also empowers the Naib-Tahsildar to correct clerical mistakes and errors in annual register after test and verification of current annual register and issue it to the concerned tenure-holder and other persons interested followed

by the notices containing relevant extracts from the current annual register showing their rights and liabilities in relation to land and mistakes and disputes discovered during the record operations. Any person interested in the land may file objection before the Naib-Tahsildar to settle the dispute regarding correctness or nature of the entries in such records or extracts. The Naib-Tahsildar shall correct the mistake and settle the dispute between the parties by conciliation and pass the Order accordingly.

(2) The Uttarakhand Hills Consolidation of Holdings and Land Reforms Act, 2016: This Act was passed to provide the consolidation of agricultural holdings in hill areas of Uttarakhand for the enhancement of agriculture productivity, to provide commercial shape to agricultural and to create a self-employment opportunities. **Chapter II** of this Act provides the provisions for Revision and Correction of Maps and Records. **Section 3** makes the State Government to declare and notify a district under consolidation operations by way of survey of the land in connection with rectangulation or otherwise, to fix pillars and to do all acts necessary to ascertain the suitability of the area for consolidation operations. The District Deputy Director of Consolidation has duty to maintain the record-of-rights and preparing the village map, the field book and the annual register of each village under consolidation operations by virtue of **Section 4** of this Act. A case of undisputed mutation on the basis of succession shall be disposed of by a Consolidation Officer and on the basis of a transfer shall be disposed of by the Assistant Consolidation Officer in such manner and after making such inquiry as may be prescribed by virtue of **Section 6** of this Act. **Section 7** facilitates the revision of records of each village-In the revision procedure of records, digital maps and records from modern technique shall be prepared while matching the existing maps with the digital maps. On the other hand, **Section 8** prescribes the revision of the field-book and the current annual register, determination of valuations and shares in joint holdings. **Section 18** of the Act prescribes the new revenue records after final consolidation scheme came into force, the District Deputy Director of Consolidation shall cause to be prepared for each village, a new map filed book and record of rights in respect of the consolidation area, on the basis of the entries in the map as corrected under the Khasra Chakbandi, the allotment orders and the annual register prepared under Section 10.

5.4 URBAN LAND MANAGEMENT

For the concern of land management in urban areas of the State of Uttarakhand, **the Uttarakhand Urban and Country Planning and Development Act, 1973** was enacted by U.P. Act No. 30 of 1974. It regulates the planned land development. **Section 3** mandates that the State Government may declare the area to be development area in the Gazette Notification. The State Government may constitute an authority to be called the 'Uttarakhand Housing and Urban Development Authority' for all the development areas in the State under **Section 4** while **Section 9** outlines the preparation and approval of master and zonal development plans, specifying land use, density, and development standards. **Section 14** with head '*Development of land in the developed area*' mandates written permission for any land development in declared development areas and compliance with master and zonal development plans. **Chapter VI** of the aforesaid Act prescribes the provisions for acquisition and disposal of land. **Section 17** authorizes the State Government to acquire any land in the State under the provisions of the Land

Acquisition Act, 1894 for the purpose of development. **Section 19** prescribes that the State Government may, by notification, develop the area as '*Nazul lands*'. **Section 26-A** penalises the person who does encroachment or obstruction on public land while **Section 26-C** empowers the Authority to remove anything erected or deposited in contravention of the Act without notice. **Section 27** plays a pivotal role that where any development has been commenced or is being carried on or has been completed in contravention of the master plan or zonal development plan or without the permission, approval or sanction referred to in section 14, **the Urban Local Bodies (ULBs)** or any Officer of the Authority empowered may make an order directing that such development shall be removed by demolition, felling or otherwise by the owner while giving an opportunity to show cause why the order should not be made whereas Section 28 gives power to ULBs to stop development which is in contravention of the master plan or zonal development plan. Additionally, **Section 143** of the Uttarakhand Zamindari Abolition and Land Reforms Act, 1950, governs land use conversion from agricultural to non-agricultural purposes, subject to specific conditions and procedures.

5.5 CONSERVATION OF LAND

The United Provinces / Uttar Pradesh Land Revenue Act, 1901 (as applicable to State of Uttarakhand): **Section 25** gives power to the Collector to take over estates necessary for carrying out the purposes of this Act. **Section 122A** gives power to the Land Management Committee with the general superintendence, management, preservation and control of all the land, forests within village boundaries trees (other than trees in a holding, grove or abadi), fisheries, tanks, ponds, water channels, pathways, abadi sites and hats, bazars and melas vested in the Gaon Sabha under Section 117. **Section 123A** holds Land Management Committee members accountable for losses or misuse of Gaon Sabha property, allowing compensation suits with prescribed sanctions. **Section 123B** penalizes unlawful reoccupation of Gaon Sabha land and empowers the Collector to retake possession using force if necessary. **Section 143** regulates the conversion of agricultural land to non-agricultural purposes. Landowners must obtain permission under this section to change the land use ensuring that agricultural land is preserved unless a justified conversion is approved. **Section 154** imposes restrictions on the transfer of land by a bhumidhar (landholder) to prevent fragmentation and ensure that land remains within the agricultural community. **Section 194** empowers the Land Management Committee to take over land after extinction of interest held by bhumidhar or asami. **Section 198A** prescribes the provision for restoration of possession to the allottees of Gaon Sabha or the Government lessee.

Section 212 of the Act of 1950 lays down the provision for conservation of govt. land including burial ground, pond, pathway or khalian etc. It says that any person who on or after 8th August of 1946 has been admitted as a tenure grove-holder or an intermediary cultivating shall be liable to ejectment from the land, on payment of compensation, for public utility. **Section 212A** bestows the summary procedure for ejectment from land of public utility.

CHAPTER-6

6. LAND ADMINISTRATION AND MANAGEMENT IN THE STATE OF ODISHA

“If properly implemented, land reforms can play an extremely important role in promoting a just, egalitarian, broad-based, balanced, and peaceful path of development in India.”

– Bharat Dogra⁽⁶⁾

In the State of Odisha, the administration and management of land (*being a State subject*) is scattered through various Acts and Rules necessitating a compilation and consolidation of these into an exhaustive and updated volume. However, the relevant extracts as per the current state of affairs are being provided hereunder.

6.1 MUTATION OF LAND RECORDS

In the State of Odisha, mutation of land is primarily governed as per the mandate prescribed in the **Orissa Survey and Settlement Act, 1958**. **Section 16** of the Survey and Settlement Act read with **Chapter IV of the Orissa Survey and Settlement Rules, 1962** provide the grounds and manners for correction of the record-of-rights and map whereas the **Orissa Mutation Manual, 1962** outlines the exhaustive procedure for Mutation. The provisions contained in the Mutation Manual cannot override the provisions contained in the Orissa Survey and Settlement Rules, 1962. The Mutation Manual only seeks to amplify the provisions in addition to laying down detailed instructions for regulating the administrative aspect of the work. Notably, **Tahsildars** including **Additional Tahsildars** are empowered for the purpose of Mutation proceedings.

Chapter III of the **Orissa Mutation Manual, 1962** relates to Initiation and Disposal of Cases by Tahsildars. Importantly, **Rule 17** of the Manual provides that Tahsildar can initiate the proceeding for mutation on the basis of an application, on receipt of intimation from Court or on acquisition of land under the Land Acquisition Act or on *suo moto*. **Rule 24** of the Manual refers to the specific grounds upon which mutation can take place and can be corrected as enumerated under **Rule 34**. **Rule 36** of the Manual talks about notice to the Defendant while **Rule 42** provides for hearing of objections received from the noticee. All objection petitions shall be entered in a register called ***Mutation Case Objection Petition Register***. **Rules 65 till 73** refer to examination of witnesses. **Rule 74** talks about Judgment while **Rule 75** provides for correction of land records accordingly. **Rule 83** of the Manual binds the Tahsildar to ensure that the ordered changes are incorporated in the land records. **Chapter IV** of the Manual mandates for the Appeals, Revisions and Reviews.

6.2 SUBDIVISION AND PARTITION OF LAND

In the State of Odisha, Partition of land among co-sharer raiyats is primarily dealt with under **Section 19** of the **Odisha Land Reforms Act, 1960** read with the **Odisha Land Reforms (General) Rules, 1965**. **Section 19** provides that Partition of a holding among co-sharers shall be effected and is valid if made by –

- a) Registered instrument
- b) Decree of a Court
- c) Order of a Revenue Officer on mutual agreement

Rule 19 of the **Odisha Land Reforms (General) Rules, 1965** details out the manner of partition among co-sharer raiyats and importantly provides that such application can only be allowed if it contains the consent of all co-sharing raiyats.

Rules 49 and 50 of the **Orissa Mutation Manual, 1962** also deal with sub-division of holding and correlating distribution of rent.

6.3 MAINTENANCE OF LAND RECORDS

In the State of Odisha, the **Orissa Survey and Settlement Rules, 1962** were brought into force to carry out the **Orissa Survey and Settlement Act, 1958**. These rules are the primary depository from which the procedure of maintenance of land records in the state can be ascertained. **Section 16 (2)** of the **Orissa Survey and Settlement Act, 1958** gives power to the Government to prescribe the manner in which the map and the record-of-rights will be maintained and kept up-to-date. The manner of maintenance has been prescribed by Government in **Chapter IV** of the **Orissa Survey and Settlement Rules, 1962**.

Chapter II of the Rules deals with the provisions of ‘Survey’. It includes the Field survey, Local enquiry, Survey Marks, Disposal of objections as well as Preparation of draft and Final survey record. **Chapter III** of the Rules deal with preparation of record of rights. **Rule 21** outlines the particulars that are to be recorded while **Rule 23** deals with the preparation of Maps. **Rule 24** is about local enquiry and **Rule 26** refers to publication of draft record and receiving of objections while **Rule 29** gives for the final publication of record of rights. **Chapter IV** of the Rules is related to Maintenance of Record of Rights and Map. **Rule 32** mandates that the Tahsildar to maintain and keep up to date the record of rights and maps prepared under Chapter III. **Rule 34** provides the grounds on which correction of the record of rights and map is to be made. **Rule 39** deals with consent of parties for sub-division of holdings whereas **Rule 41** prescribes the manner of disposal of mutation applications. **Rule 42** provides for Appeal and **Rule 43** provides for Review.

The Odisha Special Survey and Settlement Act, 2012 and Rules 2012: This Act along with the Rules were formulated and passed to provide for undertaking Survey and Settlement Operations in the State by adopting modern technology to minimize the time span without compromising quality transparency and

grievance redressal. The State Government under **Section 4** read with **Rule 4 & 5** may reorganize the ongoing survey operations in the concerned districts. **Section 6** read with **Rule 7** provides the procedure of survey of a revenue village to be carried out by applying modern technology inclusive of base mapping, demarcation and ground realities. **Section 7** read with **Rule 11** and **Section 8** read with **Rule 12** prescribes the provisions for preparation of the draft record of rights and publication of such rights respectively. **Section 9** read with **Rule 13** prescribes the provisions for filing of claims and objections against the entries in the draft record of rights whereas **Section 11** read with **Rule 15** mandates the provision for final publication of record-of-rights after disposing of claims and objections within a maximum period of three months. **Section 12** read with **Rule 16** says that final publication and correctness of record of rights shall be conclusive evidence of such publication. **Section 14** read with **Rule 17** maintains the record-of-rights in digital form in the prescribed manner.

6.4 URBAN LAND MANAGEMENT

In the State of Odisha, the **Orissa Government Land Settlement Act, 1962** deals with the aspect of settlement of Government waste land in the state. This empowers for the reservation of land for communal and other public purposes, levy of rent, fees etc. **Section 3** of the Act provides for the reservation and settlement of Government land for housing sites, communal, industrial or other purposes. The Government is also empowered to charge rent or fees thereon. **Section 3-A** of the Act deals with the de-reservation of land by publication of a notification in the official gazette. **Sections 7 and 7-A** deal with the procedure of ‘Appeals’ and ‘Revisions’, respectively.

The **Orissa Town Planning & Improvement Trust Act, 1956** deals with the development, improvement and expansion of towns in the state of Odisha and thus forms part of urban land management. **Sections 29 and 30** of the Act deal with Preparation of Master Plan while **Sections 31 and 32** deal with the publication and approval. **Section 34** of the Act then talks about improvement Scheme. All the above-mentioned provisions aid the State in better management of urban land so that optimum utilization can be ensured.

Furthermore, the **Orissa Municipal Act, 1950** deals with the administration of urban land that comes under the areas defined as Municipalities and Municipal Corporations. Importantly, **Chapter VI-A** of the Act deals with the constitution of District Planning Committees. **Section 62-B** lists the functions of such committees and some of such functions are spatial planning, infrastructure development and environmental conservation all of which form part of urban land management.

6.5 CONSERVATION OF LAND

As far as the protection of land from natural degradation and destruction is concerned, the matter is dealt with under several enactments. The conservation of land is also dealt with under the Coastal Zone Regulations as the State of Odisha is one of the coastal states of India and is also prone to cyclones originating from the Bay of Bengal and India Ocean.

The other kind of conservation of land is dealt with under the **Orissa Prevention of Land Encroachment Act, 1972**. **Section 2** of the Act begins with defining what is actually meant by the term 'property of government'. It is important as the objective of the Act is to prevent encroachment upon the Government property. **Section 4** of the Act deals with the levy of assessment on land which is unauthorisedly occupied and the authority empowered in this behalf is the Tahsildar. **Section 6** empowers the Tahsildar to impose penalty in addition to the assessment while **Section 7** empowers him to summarily evict, forfeit and impose fine. Such actions are subjected to Appeal and Revision as per **Section 12** of the Act.

CHAPTER-7

7. LAND ADMINISTRATION AND MANAGEMENT IN THE STATE OF JHARKHAND

“Without love of the land, conservation lacks meaning or purpose for only in a deep and inherent feeling for the land can there be dedication in preserving it ”

- Sigurd F. Olson ⁽⁷⁾

The State of Jharkhand is divided into five divisions namely- North Chotanagpur, South Chotanagpur, Palamu, Kolhan and Santhal Pargana. It has a majority of Tribal communities in terms of population. Due to the separation of the State of Jharkhand from Bihar, the situation has become even more complicated because certain legislations that were earlier applicable to both the territories are now experiencing partial operation as they have been repealed in either of the states. However, the relevant legal provisions, extracted from those various legislations, related to the administration and management of land in the State of Jharkhand are mentioned hereunder. Mostly, the land records administration is being governed by the following legislations as:

1. Bihar Tenants' Holdings (Maintenance of Records) Act, 1973.
2. Chotanagpur Tenancy Act, 1908
3. Santhal Parganas Settlement Regulation, 1872
4. Bihar Tenancy Act, 1885
5. Bihar Land Reforms Act, 1950
6. Jharkhand Municipal Act, 2011
7. Jharkhand Public Land Encroachment Act, 1956

7.1 MUTATION OF LAND RECORDS

In the State of Jharkhand, the mutation of land records is primarily governed by the provisions contained in the **Bihar Tenants' Holdings (Maintenance of Records) Act, 1973** read with the **Bihar Tenants' Holding (Maintenance of Records) Rules, 1976**. However, the said Act along with the said Rules has been repealed in the State of Bihar. They are no more applicable in the State of Bihar but this very Act along with the Rules is still enforceable for the maintaining land records and mutation process in the State of Jharkhand.

Chapter III of the aforesaid Act read with the **Chapter IV** of the said Rules deals with the Procedure of Mutation of Land Records. **Section 14** of the Act has provision for the registration and disposal of mutation cases. The **Anchal Adhikari** is the responsible person for maintaining the Mutation Register. The Anchal Adhikari (*an officer appointed by State Government*) after receiving notices of transfer, by way of sale; exchange; mortgage; lease; partition or gift or by any other mode; or by Court Order; or of auction or of land acquisition; of partition, shall start the mutation proceedings and after entering it in

the mutation case register shall forward the record to the Sarpanch for enquiry. After following due procedure as prescribed under Section 14, the Mutation process of a Land Record shall take place. **Rule 32** of Chapter IV of the aforesaid Rules speaks that under Section 14 (1), Mutation Register shall be maintained in Maintenance of Records Form 28. The Provisions for Appeals and Revision are given under **Sections 15 and 16** respectively.

7.2 SUBDIVISION AND PARTITION OF LAND

One of the legislations dealing with the aspect of partition of land in the State of Jharkhand is the **Estates Partition Act, 1897**. **Chapter II** of the Act outlines the right to claim partition. **Section 4** provides as to who can claim partition. In particular, **Chapter IV** of the Act deals with the different aspects of initiation and discontinuance of partition proceedings. **Section 17** talks about how an application for partition is to be made and empowers the Collector in the matter. **Section 21** then provides for notice of application. **Section 23** deals with Objections upon notice etc. **Chapter VIII** even provides for situations partition is made by Deputy Collector and is then approved by the Collector. **Chapter IX** then lists out the general principles for making partitions. **Section 63** points out the circumstances to be considered while making partition. **Section 81** makes provision for splitting up of tenure or holding in order to give effect to an equitable partition.

Another legislation dealing with the aspect of partition of land in the State of Jharkhand is the Chota Nagpur Tenancy Act, 1908. In particular **Section 24A** talks about division of holding by partition and distribution of rent thereof. The section points out that such division can be done in pursuance of a Court order or otherwise. It mentions that in either case notice has to be served upon the landlord and he may accordingly object. The section empowers the Deputy Commissioner to redistribute the rent in consequence of such subdivision. The Deputy Commissioner may even award and recover costs in the matter.

7.3 MAINTENANCE OF LAND RECORDS

Section 3 read with **Rule 4** of the **Bihar Tenants Holdings (Maintenance of Records) Act, 1973** and **Rules, 1976** respectively empowers the Anchal Adhikaris to prepare and maintain continuous Khatian, Tenants' Ledger Register and Village Maps. **Rule 5** of the **Bihar Tenants Holdings (Maintenance of Records) Rules, 1976** is an exhaustive rule which explains the mode of maintenance of continuous *Khatian* and Tenant's Ledger and Village Map under Section 3 by the Anchal Adhikari.

One of the primary legal frameworks dealing with maintenance of land records in the state of Jharkhand is the Chota Nagpur Tenancy Act, 1929. **Chapter XII** of the Act is titled as Records of Rights and Settlement of Rents. **Section 80** begins by empowering the State Government to order survey and preparation of record of rights while **Section 81** lists out the particulars to be mentioned in such order. **Section 83** then provides for the preliminary publication, amendment and final publication of record of rights and **Section 84** grants presumption of correctness to such records of rights. **Section 85** provides that the revenue officer may settle fair rents. **Section 89** then provides for Revision by revenue officer

and **Section 90** makes provision for correction by Deputy Commissioner or Revenue Officer of mistakes in record of rights.

Another legislation dealing with the subject is the Santhal Parganas Settlement Regulation, 1872. **Section 9** of the Regulation empowers the State Government to order settlement for the purpose of ascertaining and recording the various interests and rights in the land while **Section 10** empowers the State Government to appoint Settlement Officers. **Section 11** then bars the jurisdiction of Civil Courts in the matter. **Section 13** prescribes the form of record of rights and **Section 14** provides for publication of notice. **Sections 24 and 25** deal with the publication of record of rights and their finality respectively.

7.4 URBAN LAND MANAGEMENT

The Jharkhand Municipal Act, 2011 serves as the key legislative framework for managing land in urban areas, ensuring organized and efficient governance. It must be mentioned at the outset that almost half of the geographical area of the state is dominated by tribal population and is resultantly governed under the **Fifth Schedule** of the **Indian Constitution** which contains specific provisions in this regard. **Chapters II and III** of the Act deal with the constitution of municipalities and Councils. Importantly, **Chapter VIII** of the Act talks about the functional domain of municipalities and therein **Section 70** lists out the municipal functions in which one of the core functions is that of urban planning including town planning. Needless to state here that urban planning invariably involves urban land management in optimum ways. **Chapter XXIII of the Act** talks about urban environmental infrastructure and services. **Chapter XXXVI and XXXVII** deals with development plans and the improvement respectively. Lastly, **Chapter XXXIX** covers the aspect of building regulations. In this way the abovementioned Act covers the various aspects of urban land management in the state of Jharkhand.

Under **Section 9**, the State Government has power to abolish or alter limits of municipal areas. In Urban areas of the Jharkhand State, the Municipal Authorities are divided into categories i.e., Municipal Corporation, Municipal Council and the Nagar Panchayat. Such bodies shall have the power of administration in their respective jurisdiction subject to the State Government. **Chapter-5** of the Act talks about the Constitution and Functions of the Ward Committees, Area Sabhas and other committees. **Section 48** of the Act empowers the State Government to constitute a Joint Committee for more than one municipality or municipalities with other local authority or authorities for any purpose in which they are jointly interested or for delegating to it any power or function which calls for joint action. **Chapter 15** of the Act deals with the 'Municipal Property'. **Section 125** of the Act gives power to the Municipality to acquire and hold by gift, purchase or otherwise, movable or immovable properties within or outside the limits of the municipal area. **Section 126** of the Act speaks about the categories of the properties which are vested in the Municipality whereas **Section 127** provides that the Municipality may acquire any property by agreement, exchange, lease, grant etc. **Section 128** specifies about the compulsory acquisition of land within or outside the limits of municipal area for any public purpose under this Act while **Section 129** provides special provisions for acquisition of lands adjoining streets whereas **Section 295** of the Act prescribes that the Municipality may acquire any land or any structure including building for the purpose of public streets, public parking places and transportation terminals.

Section 130 of the Act empowers the Municipality to dispose any property belonging to the Municipality with the prior approval of the State Government. **Section 131** of the Act mandates the provision for maintaining a register and a map of all the immovable properties belonging to the municipality. The Municipality has power to stop improper use of land or building under **Section 356**. **Section 380** of the Act provides that the Municipality shall implement the development plans. **Sections 417 & 418** of the Act empowers the Municipality to acquire the open or enclosed land and land occupied by platforms etc., within regular line of street.

7.5 CONSERVATION OF LAND

As stated earlier, a vast chunk of the geographical area of the state is inhabited by tribal population and is covered with forests. Conservation and protection of these forests thus play a vital role in the overall land conservation efforts in the state. In this regard, the various protected forest rules notified by the State Government under the Indian Forest Act, 1927 are:

- a) Chota Nagpur Protected Forest Rules
- b) Kolhan Protected Forest Rules
- c) Porahat Protected Forest Rules
- d) Santhal Pargana Protected Forest Rules
- e) Dalbhum Protected Forest Rules

The legislation dealing with another aspect of land conservation i.e. protection against encroachment in the state of Jharkhand is the **Jharkhand Public Land Encroachment Act, 1956** (*Erstwhile known as Bihar Public Land Encroachment Act, 1956*). **Section 3** of the Act empowers the Collector for initiation of proceedings against encroachment upon public land and this initiation can be based upon an application of any person or even otherwise. **Section 4** requires that whenever such proceedings are initiated and a notice has been tendered to the person responsible, he may be allowed to put forward his defence. **Section 5** prescribes regarding the conduct of hearing in the matter and obviously that has to be made before the Collector and upon conclusion of this hearing and appreciation of evidence, the Collector has to pass final order as per the mandate of **Section 6**. The State Government has even been empowered to compound such matters in accordance to **Section 6A**. **Section 7** empowers the Collector to get the encroachment removed if the person concerned fails to comply with his orders and to recover the cost thereof from him. **Section 8** provides such proceedings to be summary in nature. **Sections 11 and 13** deal with Appeals and Review respectively. Jurisdiction of Civil Courts has been barred in light of **Section 16** of the Act.

CHAPTER-8

8. Conclusion: Strengthening Legal Frameworks for Sustainable Land Governance

“We abuse land because we regard it as a commodity belonging to us. When we see land as a community to which we belong, we may begin to use it with love and respect.”

- Aldo Leopold ⁽⁸⁾

The comparative analysis of land laws across six States highlights the complexities and variations in legal frameworks governing land ownership, acquisition, and regulation. While each state has its distinct approach, common challenges such as land disputes, inadequate enforcement mechanisms, and socio-economic disparities persist. Addressing these issues requires a collaborative effort between state governments, legal experts, and stakeholders to streamline and modernize land governance.

A key takeaway from this study is the need for a more harmonized legal structure that not only respects regional differences but also integrates standardized principles for greater efficiency and transparency. Disparities in land titling systems, delays in judicial resolutions of land conflicts, and opaque administrative procedures contribute to inefficiencies that hinder economic growth and social stability. Therefore, adopting a more integrated and technology-driven approach can mitigate these challenges.

One of the most promising advancements in land governance is the digitization of land records. Implementing digital platforms for land registration and transactions can significantly reduce fraudulent activities, minimize bureaucratic delays, and enhance public accessibility to land-related information. This shift towards e-governance can also facilitate better dispute resolution mechanisms and promote confidence among investors and landowners alike.

The **State of Odisha & Bihar** has taken a significant step in this direction by introducing new rules for land surveys and resurveys. These new measures focus on leveraging advanced technology such as Geographic Information Systems (GIS) and drone-based mapping to ensure greater accuracy in land records. The States have also emphasized timely updates of land ownership details to reduce disputes arising from outdated or incorrect records. This progressive approach can serve as a model for other states seeking to modernize their land governance frameworks. By adopting similar survey and resurvey techniques, States can enhance transparency, reduce litigation, and create a more reliable database for land transactions and policy planning.

Moreover, transparent legal processes and equitable land distribution policies should be prioritized to ensure sustainable development and social justice. Policies that favor marginalized communities, indigenous populations, and small-scale farmers can help bridge socio-economic gaps and prevent land alienation. Ensuring community participation in land governance decisions can further strengthen trust and compliance with legal frameworks.

Additionally, continuous policy reviews and amendments will be crucial in adapting to evolving societal and economic needs. Land laws must be flexible enough to accommodate emerging trends such as urbanization, environmental conservation, and infrastructure expansion. Establishing specialized land tribunals, promoting alternative dispute resolution mechanisms, and enhancing legal literacy among the populace will further reinforce the effectiveness of land governance systems.

Ultimately, strengthening land laws and governance structures is vital for economic growth, environmental sustainability, and the protection of land rights for all citizens. By fostering legal clarity, procedural efficiency, and inclusive policymaking, States can build more resilient land management systems that balance development with the rights and interests of communities. A well-structured legal framework not only secures land tenure but also fosters national progress by ensuring that land remains a valuable and sustainable resource for future generations.

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