

CONCEPTS AND EXPRESSIONS OF REVENUE LAWS IN ODISHA

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ABSTRACT

Revenue laws are steeped in the usage and custom and are volk-geist legislations. The words associated with these legislations give impressions of village life. Revenue legislations deal with the collections of revenue over the lands and try to bring reforms on the right associated with it by various persons with an objective to make green revolution successful in India. The paper makes an attempt to discuss important concepts and expression associated with revenue laws in the state of Odisha.

INTRODUCTION

Revenue Law in the legal discipline is one of the challenging areas of study. Firstly in the federal form of the governance of India, the land is a subject matter of the state government. Secondly, it is rooted in the land of a particular state and developed mostly out of custom and convention and usage, which in the case of India is highly diversified. Moreover, in a particular state in India too, there are language variations in different areas and district. Thus, the practice of rights over the land and revenue paid on it were represented through peculiar words developed out of colloquial expressions and are reflected in various revenue records in such raw forms. The challenge for the legislature even in a state was to bring uniformity of rights with a common word or concept and after that, to confer various rights over the land through the concepts in order to meet the desired objectives. This too has been a challenge for

the central govt even while making various policies to make revenue reform and land reforms. The objective of the paper is to give an overview, make an attempt to study various words and colloquial expressions used in the practice and the concepts introduced in various revenue legislations in the State of Odisha.

AN OVERVIEW OF THE REVENUE LAWS OF ODISHA

The first legislation in the State of Odisha after independence was the **OEA Act, 1951ⁱ**. This came into effect on 1.1. 1946. The intention of this legislation was targeted to liquidate the feudal class of persons who were hardly contributing to the development of the land and seldom were producing yields by agricultural occupation. Rather they were having the ownership over the vast acres of land and were giving land on various tenancy basis and were collecting revenue out of it which they further were giving to the King or the British administration, thereby keeping alive their status and power. The person who was doing the agricultural activity, the farmer, the tiller, the tenant were living in abject poverty and working just like a bonded labour. Before this Act of 1951, there were other legislations which tried to some extent ameliorate the conditions of this class of person. The Orissa Tenancy Act, 1913 and Orissa Tenant Protection Act, 1948, gave protections to these tenant class of persons by not to be evicted of from the agricultural land at the whims of his landlord. Also, fixed the rent to be realised by the Landlord over the land both in cash or kind. However, the OEA Act, 1952 directly hit the Landlord feudal class of persons. It was to establish a direct relationship between State government and tiller. Two important concepts, intermediary and Estate were introduced to hit the feudal class and a concept of khas possession was introduced to give them some concession. Before going for the next important legislation, Orissa Tenancy Relief Act, 1955 was introduced as a gap arrangement. The next important and kernel legislation is Orissa Land Reform Act, 1960. This legislation in order to achieve agrarian reform gave sovereign or highest rights to farmer also making a cap to on

the part of a person to retain land, on the later period around 1972. And in order to further achieve that, for better maintenance of land records and ascertaining the status and position of land, Orissa Survey and Settlement Act, 1962 was introduced. The survey and settlement work is a continuous process, as land is one of the key factors of production and subject to intense commerce. Prior to Independence of India, it had happened in Odisha in different parts at different times, and in the future it shall take place with the latest technologies under the new Survey and Settlement Act. The next important piece of legislation in order to give a farmer a larger part of land confining it at one place to facilitate his farming without moving hither and thither was Orissa Consolidation of Holding and Prevention of Fragmentation of Land Act, 1972. Here too, survey work was conducted in the village where it was made application. However, this survey was done primarily for consolidations. With these key legislations among many others, the revenue administration is conducted in case of Odisha. These legislations have used a host of words and colloquial expression to represent various concepts.

CONCEPTS UNDER THE LEGISLATIONS

Intermediary: This concept was introduced to identify the feudal class of persons in the state. This concept was introduced in **Orissa Estate Abolition Act, 1951**. As the per the English meaning, this class of persons were coming in between the State Government and the tiller or farmer of the land. And since, farmers were the class of persons who deserve to be endowed with rights of ownership over the farmland so that he shall do the agricultural activity undisturbed, it was in the interest of the state government to elevate the financial condition of this class of person. The words used to refer to this concept were Zamindar, Sarbarkar, Thikadaar, Muafidar, Gountia, Pradhana. It was to achieve the self-sufficiency in food for the country, to protect the mainstay of employment and to eradicate poverty.

Estate: This represents the rights, title and interest over the land or immovable property kept by the feudal class of persons in Odisha represented who were under the expression, intermediary. Orissa Tenancy Act, 1913 and Orissa Estate Abolition Act, 1951 used this expression. **Sec 3(7) of Act, 1913 estate** means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands. Prepared and maintained under the law for the time being in force by the Collector of a district, and includes Government khasmal and revenue-free lands not entered in any register and includes the interest of sub-proprietor.

Khas Possession: It is a concept where a person has actual possession by himself or through a temporary tenant of agricultural land, by an intermediary; he shall be allowed to retain that land. For actual possession, by himself, he shall retain all those land in possession. And through temporary tenants, the intermediary can retain up to 33 acres. Beyond that, the land shall be ceded to the government as an estate.

Service Tenure: These are the class of persons who were holding land as they were offering service to the villagers as a whole or the earliest while rulers or the intermediary, with or without revenue as per the agreement, custom or convention. OEA Act, 1951 given scope for the settlement of land to these persons u/s 8. Eg. Chowkidar, watchman and the blacksmith got rent-free land as Jagirs from the State for the service rendered by them.

Ceiling: A concept where land held in vast acreage by the then zamindar or landholders was restricted. It was first impliedly used in the OEA Act, 1951, where an intermediary cannot keep land more than 33 acres through his temporary leasee, and subsequently in ORL Act, where a landholder and his family of 5 members cannot keep more than 10 Standard Acre as well as Homestead Land more the 3 Acres. Land beyond these were liquidated and vested to the government.

Consolidation: It is the process by which different parcels of land are compacted together or amalgamated together. It is amalgamation of lands to make it larger so that agriculture can be done suitably. The concept is introduced in the OCH and PFL Act, 1972ⁱⁱ. After consolidation, the compact parcel of land is made and it is known as Chaka (round-shaped). So consolidation is the process and Chaka is the end. As per sec 2 (e) of the Act 'Chak' means a compact parcel of land allotted to a landowner on consolidation, and sec 2 (f) "Consolidation" means amalgamation and re-distribution of a parcel or parcels of land comprised in different holdings of a unit for the purpose of rendering such holdings more compact.

Fragmentation: It means breaking or fragmenting Consolidated or Chaka land, which as per introduced in OCH and PFL Act, 1972. The object is not to create fragmentation as it shall dis-incentivise agriculture. This objective is fortified by Sec 34 of the Act, where creating a fragment one cannot transfer the land to other creating a fragment. However, creating a fragmentation for the sale of the land or transfer can be made only through the Revenue Officer who shall auction sale to a land-owner of a contiguous Chaka at market value. As per section 2 (m) of the Act, fragmentation means a compact parcel of agricultural land less than one acre in Cuttack, Puri, Balesore, Ganjam and in Anandapur, and less than two acres in case of other areas of the state of Odisha, hold by a person either individually or jointly.

Mutation: Changing the recorded name of a person in the record of right to that of the latest person, due to sale or inheritance or succession etc. Application is filed before the Tahasil office for the changing of name by the latest person so that he should pay the revenue or the revenue be collected from his name. Mutation records are more in the nature of fiscal entries instituted in the interest of State.

Conversion: Changing the status of land from agriculture to the homestead done under OLR Act, 1960ⁱⁱⁱ. From the perspective of revenue, understandably, a homestead is levied with higher rents.

EXPRESSIONS RELEVANT UNDER VARIOUS REVENUE LEGISLATIONS

Anabadi Land: Land non-suitable for the construction of human houses for habitation

Abadi Land: Land suitable for the construction of human houses for habitation

Bhaga Chasi: Sharecropper, where the landlord and tenant share the yield of produce into equal half. He cultivates the land of another. He has an interest in the land.

Brahmottar Grants: Land Possessed by a Brahmin in the Brahmottar village mostly having the right in the homestead, tree and fisheries. These grants were given for the religious and cultural purpose and for offering prayer to God for the welfare of the Raj Family. In the Brahmottar villages, Brahmins used to cultivate through servants. But there were also sub-tenancy with occupancy rights in some cases. These sub-tenants were paying rent to Brahmottar holders.

Bijayapati Raiyat: Raiyat under the Orissa Tenancy Act, 1913

Baiyapti Tenancy: The incidence of Baiyapti is that of a tenant. The rent grants which have been accepted under enquiry were held as Lakhraj Bahel and those claims rejected were recorded as Baiyapti and their holders were called as Baiyapatidars. The status of after the amendment of tenancy laws was that their status was that of raiyat. He has a heritable, transferable and divisible right under Maddox Settlement. **Bijayapati Pattadar**, same Pattadar used in Orissa Tenancy Act, 1913.

Sec 3(2) of the Act, 1913, states "bajiajtidar" means a person holding lands the title to hold which upon special terms was declared invalid by the Cuttack Land Revenue Regulation, 1805, the Bengal Land-revenue Assessment (Resumed Land) Regulation, 1819, or the Bengal Revenue-free Land Regulation 1825, and which have been assessed in the course of a settlement of land-revenue, at a rent fixed for the term of that settlement; and includes also the successors in interest of such a person;

Babuvan Jagirs: Grants to the relatives of the ruler for maintenance were held rent-free for life only and were subject to payment of cesses.

Bandobast: Settlement of land in favour of a person

Bhulekh: Bhulekh means Land Record.

Be-bandobast: Land which is yet to be settled in favour of a person (sometimes it also signifies as rent free land)

Bhoora Bhogi Land : A rent-free land held by mostly a Gountia

Chakran Jagir : lands held rent-free and cess-free for the purpose of rendering free service to Darbar.

Chakran Bajyapti : Tenures of Jagir lands for which rent and lessee were paid

Chandandari Tenancy or Dar Chandandari Tenancy: It is a residential tenancy of the homestead, however, within the scope of Orissa Tenancy Act, they are mainly concerned with cultivating tenancy and hence a tenant under the OT Act, 1913. Sec 3 (3) of the Act, 1913 states "chandnadar" means a person holding land which has been recorded as chandna in the course of a settlement of land-revenue, and for which rent has been fixed for the term of that settlement; and includes also the successors in interest of such a person.

Debottar Land: Estate consisted of lands given as a service grants for religious purposes to shebait of temples.

Dasabandham Inams: - A Dasabandham Inam is a grant of land or revenue as a compensation for the construction of a tank, channel or well.

Darmila Inams :- A Darmila Inam is an inam of Post-settlement origin i.e., the land granted by the landholder of an estate subsequent to the permanent settlement in 1802. Darmila Inams are of two categories viz., 1) those which are in personal service of the land holders and 2) those which are intended for service to the village community

Desha Haata Jagir- A chowkidar as village service tenancy under ex-ruler holding land in lieu of his service.

Gochara Land: Communal Land for the grazing of cattle

Haal: Present status of the land as per Record of Right

Inam Land: It is an Estate under OEA Act, 1951.

Inamdaar: The word is popularly used in the context of Madras Presidency Land Revenue System. He is an intermediary under the OEA Act, 1951. It was a feudal title prevalent before and during British Raj, including during the Maratha rule of Peshwa and other rulers of India. The title was bestowed upon to the person who received lands as Inam (grant or as a gift), rewarding the extraordinary service rendered to the ruler of the princely state.

Jhankar- Village Priest coming under Village Service Tenure.

Jamabandi. It is a document prepared as part of record-of-right in every revenue estate. It contains entries regarding Ownership, cultivation and up-to-date of various rights in land. It is a copy of the Record of Right maintained by Revenue Inspector in the State of Odisha.

Ek-Paatia: Rent Roll.

Enfranchised Inam :- An enfranchised inam is one where the holder of which is relieved from the conditions of service subject to payment of quitrent on the lands. He will have all the privileges of a ryotwari.

Khasmahal: A kind of communal land under the Rakhita (preserved/ reserved) Khata.

Khasmahal Lease: Right of the Lessee like that of a right of a person in Private Land. It is heritable and transfer. Lessee can create a permanent right of tenancy.

Kara.or khajana or Pauti: Local expression for Rent

Kabala: Local expression for Sale Deed

Kuthias and Bhutiars: Attached Labourers and Casual Labourers in western odisha

Kharposh: Land, given or granted by the king to his relatives for his up-keeping, maintenance and survival.

Lakhraj Land : Rent free land kept by a Brahmottar.

Lekhiraj Bijayapati pattadar: Same as ordinary Pattadar as per Dr Syed Dilawar Ali Settlement 1914.

Lambardar or Lambardar Gountia or Numberdar: A kind of manager appointed in for village the Deputy Commissioner under the Central Provinces Land Revenue Act. He had the power to dispose of wastelands and not the cultivable lands. A Lambardar in a Gountiayi village combines in himself two different capacities. As a co-sharer landlord of the village, he is no way different from that of any other co-sharer gountia. Out of the total rent collected from the raiyats, the co-sharer landlords are entitled to their respective shares.

Mukkaddams: In Brahmottar village person who was performing the role of a Sarbarkar was known as Mukkaddams.

Major Inams :- A major inam consists of a whole village or a major portion of the village granted as an inam and confirmed as such by the Inam Commissioner.

Minor Inams :- A minor inam consists of a small extent of land of about five or ten acres of land granted as an inam and confirmed or recognised by the Inam Commissioner.

Najarkut settlement: A summary settlement of the ex-State made through the estimation of eyes. Here no measurement of the land was made, but Panchayats were generally appointed to ascertain and get the rents.

Nazarana: The price paid to obtain the consent of a landlord or the government to occupy/ till a land or to exercise any right over the land.

Naria Nuakari Mafi : A water-serving personal service tenant under ex-ruler holding land for free in lieu of his service.

Nazul Plot or Area: A kind of communal land under the Rakhita (preserved/ reserved) Khata

Occupant Rayat: A person who held the land for 12 years for cultivation. Non-occupancy rayats were liable to ejectment for nonpayment of rent. Once it is accrued it cannot be taken away except in accordance with tenancy or acquisition laws. It is either given recognition or is acquired by a raiyat qualifying it. The status is obtained by law not, by grant or agreement.

Paika Jigir: A land kept by paiks for his service of performing guard and petrol duties. He had no raiyati right in his land and if he is removed from service he was losing the land.

Praja: The subject, now a citizen who is subject to pay revenue under the revenue laws for a land.

Patta.: Record of Right

Parcha Slip: Draft Record of Right

Pattadar: He is a tenure holder u/s 3(2) of Orissa Tenancy Act, 1913.

Pattadari Status: Leasehold Status of Land

Paramboke Land: It is the amalgamation of two words param means “is outside” and poke means “revenue record”. Thus the word “poramboke lands” means the lands which is not assessed to revenue records and it is outside the revenue accounts. It can be an uncultivable land or can be a communal Land. The words, Tank Paramboke, Village Paramboke, Burial Pramaboke, Government Paramboke, Gramakantha Paramboke, Sand Dune Paramboke are popularly used to describe various of its kinds.

Raiyat: A tiller of the land having sovereign rights over it. His right is heritable, transferable in nature.

Raiyati Patta Satwa: Lease hold raiyati interest

Sanja: Rent in Produce.

Saabik. : The past status of land as per Record of Right from pre-1951 to 1965 year.

Sarbarkar: Sometimes, where the State was directly collecting land revenue from the tenant a man was appointed to collect the rent. He is Sarbarakars. Literacy and Solvency were the chief qualifications considered for appointment as sarbarakars. The Sarbarakars did not hold any rent fee land nor had they powers to allot waste or abandoned lands. He is a feudal class of person as intermediary under OEA Act, 1951.

Sarbarkaar Jagir. The Estate kept by the Sarbarkar is now as Sarbarkaar Jagir

Sikimi Tenant: A kind of tenant who was equated with under-tenant under the Orissa Tenancy Act. A sikmi tenant paying rent either in cash or kind is an under-raiyat under the Orissa Tenancy Act who has no abiding interest in the property and can be thrown out by the raiyat who is his landlord as a tenant at will. Section 4 of the Orissa Tenancy Act classifying tenants under that Act does not specifically provide for a sikmi tenant. This term gained ground after the revision settlement in Orissa (1929-1932 A.D.). In the final report on the revision settlement of Orissa by N. W. Daimiel, I.C.S. Settlement Officer, Orissa in paragraph 65 at page 23, it has been stated that under-raiyats were recorded as sikmi tenants in the record of rights. Thus, sikmi tenants in respect of agricultural lands governed under the Orissa Tenancy Act are under-raiyats as classified in Section 4.

Sub-proprietor: means a person who. in the course of a settlement of land-revenue, has executed an engagement for the payment of his land-revenue through a proprietor or another sub-proprietor;

Service Inams :- A service inam is an inam granted to a person or persons burdening them with a certain condition of service viz., Washerman Inam, Potters Inam, Carpenter's Inam etc..

Sir Lands: A kind of land where the landlord has both Proprietary Right and the Right of occupancy. He could transfer both of his rights but with the sanction of the Revenue Officer. If he transfers the land to the transferee without sanction, the sir plot loses its character and becomes occupancy land of the transferee. Under the C.P Tenancy Act, right of the proprietor to occupy and right of occupancy are a different component.

Under the scheme of Central Province Land Revenue Act and Central Province Tenancy Act even if a Landlord or Gountia or Thikadar loses his landlord's interest, on the Theka Interest, he does not lose his right over the Sir Land and continues to hold it as a Tenant.

Tenure: means the interest of a tenure-holder or an under tenure holder

Tenure holders: A person who was granted tenure of land for maintenance. He had a little superior right to that of land granted to rent free grantees. Sometimes, some tenure holders were known to hold the rentfree lands in some areas. A person who has acquired tenure from a proprietor, or from another tenure-holder, a right to hold land to collect rents or bringing it under cultivation by establishing tenants on it and includes also the successors in interest of persons who have acquired such a right.

Thani and Pahi : 1932 settlement raiyats were registered as Thani and Pahi based on whether they reside in the village in which the cultivation was situated or in some other village, the different of these two are redundant.

Thikadaar or Gountia or Manufidars: A landlord like Zamindar in the Western part of Odisha.

Under-Raiyat: A tenant at will can be evicted by serving a notice. Rights of Under-Raiyat is not transferable or heritable except by proof of custom.

Village Artizan Inams :- Village Artizan Inam are inams granted by the State for the services rendered to the village community by the barbers, Carpenters, Black Smiths, Washermen, Potters, Purohits and other Artizans. This type of Inams are covered u/s 8 of OEA Act, 1951

Wazibul-ul-urz- The village administration paper covering all the recognised customs, rights and dues of the individual village is a record of right. The entries there are presumed to be correct.

Whole Inams :- A Whole Inam village is a village granted as an inam and includes Agraharams held entirely free of land tax or on a favourable quitrent and such inams will be dealt with same principals as prescribed for minor inams.

Yadast. A brief written record. It is a document prepared by the Amin during the initial stage of Settlement.

Zamindar: The proprietary tenure kept by persons under the British Land Tenure system in Odisha. He was collecting revenue from the peasants and giving it to British Government. Under him, various other persons like **Sarbarkar, Mukuddums and Pradhana** were there to collect the rent from the farmers or peasants and were giving them to Zamindar. These later class of persons had the sub-proprietary title over the lands. Zamindar was granted carte blanch power to dispose of lands and to collect rent as much as he can extract from the farmers. His status factually was the absolute owner of the property without any obligation towards the farmer or raiyat than a mere collector of revenue.

Conclusion: The above concepts and expressions are an attempt of the author to introduce to the revenue laws of Odisha. The success of these legislations depends upon the correct recognition of colloquial expressions and purposive interpretations of the words representing them in the section, and delivering the justice is, to maintain the balance between these two.

ⁱ Orissa Estate Abolition Act, 1951.

ⁱⁱ Orissa Consolidation of Holding and Prevention of Fragmentation of Land Act, 1972

ⁱⁱⁱ Orissa Land Reform Act, 1960.