

PROJECT WORKS
ON
PARTITION
UNDER 19(1) C OF
OLR ACT, 1960

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ADDITIONAL, TAHASILDAR

PUINTALA

15th Batch, 2018

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INTRODUCTION

- OLR Act has been enacted to bring progressive legislation relating agrarian reforms and land tenures consequent on abolition of intermediary interest and to confer better rights of agriculturists and to ensure increase in food production.
- Act is a social piece of legislation having for its objects to limit or put a ceiling upon, the holding of each individual and family and also take over surplus lands for the distribution amongst landless people.
- Now the 19(1)C is also entered online in the RCCMS(Revenue court cases management software) to maintain transparency and quick disposal. In RCCMS the same procedure is followed as per the Rule.

Orissa Land Reform Act, 1960

Section -19

Partition among co-sharer raiyats how to be effected

(1). No partition of a holding among co-sharers raiyats shall be valid unless made by a

- (a) a registered instrument or
- (b) a decree of a court ; or
- (c) an order of a revenue officer in the manner prescribed ,on mutual agreement.

(2). When the partition is effected as provided in clause (a) of subsection (1) the registering officer shall not admit for registration any instrument unless it is accompanied by a notice in prescribed form with prescribed particulars and the fee prescribed for the service of such notice.

(3) The Notice referred to in the preceding sub-section shall be transmitted to the Revenue Officer who shall cause it to be served on the landlord or his agent named in the notice in the manner prescribed. He shall also cause a copy of the notice to be transmitted to the authority competent to maintain the record -of-rights.

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(4) When the partition is effected as provided in Clause (b) of Sub-section(1),the Court passing the final decree for partition shall send to the Revenue Officer in the prescribed form and in the prescribed manner a detailed list of the lands allotted to each share.

(5) The Revenue Officer shall send a copy of the list as aforesaid to the authority competent to maintain the record-of-rights and to the landlord,where rent of the land is not payable to Government directly.

(6) When partition is effected in the manner provided in Clauses (C) of Sub-section (1), the Revenue Officer shall send to the landlord where rent is not payable direct to Government and to the authority competent to maintain the record-of-rights in the prescribed form a detailed list of lands allotted to each share. A copy of the order along with the detailed list shall be sent by the Revenue Officer for registration under the Indian Registration Act (16 of 1908) to the Sub – Registrar having jurisdiction.

Provide that no charges for such registration shall be payable.

NOTES

Form No.4 – has been prescribed under Sec.19 (2) read with Rule 20(1) for notice of partition of a holding made by a registered instrument.

Form No. 5 – has been prescribed under Sec.19 (4) read with Rule 21(1) for notice of partition of a holding by a decree of a Court.

Form No. 5-A- has been prescribed under Sec. 19 (6) read with Rule 21 – A- for notice of partition of a holding made by an order of the Revenue Officer.

Corresponding Rule:-

Rule 19 – “Manner in which a partition can be order by a Revenue Officer under Clause(c) of Sub-Section 19”

Rule 19-A- Oral application for partition and the procedure to be followed.

Rule 20 –“Notice under Sub-sec. (2) of Sec.19 “.

Rule 21 “List under Sub-sec. (4)of Sec.19”

Rule 21-A- . “The list envisaged under Sec.19 (6) shall be in Form No. 5 – A”

Sec.19 makes it obligatory for a partition to be made by.

(a)A registered instrument.

(b)A decree of a court

(c)An order of the Revenue Officer in the manner prescribed, on mutual agreement.

(d) As per Section 17 (2)(viii) of the Registration Act, 1908 any instrument of partition made by a Revenue Officer is not compulsory registerable.

Modes of partition to be recognized are (1) By registered instrument (2) By decree of Court (3) By order of Revenue Officer. Partition effected in any other manner has to be ignored: **Collector, Kalahandi V. Parameswar Naik: 44(1977) CLT 208(BR), Narasingha Dani V. Collector Bolangir: 1990(i) OLR 587: But see AIR 1976 SC 807: AIR 1966 SC 1936: 1971 (1) CWR 988.**

- Any partition of a holding made on or after 1st October 1965, shall not be valid unless made in accordance with the provisions of Sec.19. But even if partition of land has been effected in accordance with the provisions of Sec.19 it shall be void if it had been made between the 26th of September 1970 and 2nd October 1973 by a person who held on the 26th day of September 1970 land in excess of the ceiling area: **Land Reforms Commissioner V . Additional District Magistrate: 15 (1978) CLT 181 (BR).**
- Revenue Officer while disposing of the ceiling case would certainly take into consideration the words ‘ Separated by partition or otherwise’ appearing in the definition of ‘family’ in Sec.37(b) of the Act and would not be wholly guided by Sec.19 (1) thereof : **Arda Murari V. State of Orissa : 47 (1979) CLT 1 (DB) : AIR 1979 Orissa 58.**

PARTITIONS DONE AS PER
THE ORISSA LAND REFORM (GENERAL)
RULES, 1965

PROCEDURE AND RULES FOLLOWED U/S19(1)C:-

RULE 19. Manner in which a partition can be ordered by a
Revenue Officer under Clause (c) of Sub – Section 19.

- (1) Any person applying for an order of the Revenue Officer under Clause (C) of Sub-Section (1) of Section 19 shall file an application giving a full description of the land and other details as may be necessary to effect the partition of a holding among co-sharer raiyats.
- (2). The application shall cite other co-sharer raiyats and the landlord as opposite-party.
- (3). It shall be submitted in the same manner as laid down in Sub-rules (3), (4) and (5) of Rule 10.
- (4). Not more than one application shall be necessary for partition of more than one holding, if situated in the same village and if they belong to the same co-sharer raiyats under the same landlord.

- (5). The Revenue Officer shall afford reasonable opportunity to the opposite-parties to be heard in the matter.
- (6). He shall make such other enquiry as he deems necessary for disposal of the application.
- (7). The application can be allowed only when all the co-sharer raiyats give their consent to the partition applied for.
- (8). If there is any difference of opinion amount the co-sharer raiyats,the application for partition shall be rejected
- (9). When a partition is allowed, the order of the Revenue Officer partitioning the holdings of co-sharer raiyats shall clearly mention the plots of land that are allotted to the share of every co-sharer raiyat and the amount of rent,cess and other legal dues payable by each co-sharer raiyat after partition.
- (10). If any survey plot is required to be subdivided in course of partition of a holding such partition shall be effected by the Revenue Officer only after causing necessary enquiry to be made before the final order of partition is made.

Provided that no such sub-division shall be made nor the enquiry required for making such sub-division shall be taken up until the prescribed fees are paid by the applicant.

Provide further that if such fees are not paid with such time as may be allowed by the Revenue Officer, the application for partition shall be rejected.

RULES19- A.

- (1). Where, however, an order under Section 11, 18 or 36 of the Orissa Survey and Settlement Act, 1958 with regard to any area has been issued, Rule 19 shall not be applicable.
- (2). Any application to a Revenue Officer for an order under Clause (c) of Sub-section (1) of section-19 of the Act in an area where Survey and Settlement operations are in progress, may be oral.
- (3). Such an application shall be made, to the Revenue Officer by all the Co-sharer raiyats either personally or through their authorized agents.
- (4). Such applications may be made also to any subordinate of the Revenue Officer by all the Co-sharer raiyats either personally or through their authorized agents and such subordinate of the Revenue Officer, shall reduce the application, if it is oral, into writing and transmit the same to the Revenue Officer.
- (5). The Revenue Officer may make such enquiry as he deems necessary before passing orders allowing or disallowing the partition.
- (6). Before passing orders, the Revenue Officer shall obtain the signature or the thumb impression of all co-sharer raiyats of their authorized agents on the body of the record signifying their consent to partition the holding on mutual agreement.

(7). When a partition is allowed, the order of the Revenue Officer shall clearly mention the plots of land allotted to the share of every co-sharer raiyat, the amount of rent, cess and other local dues payable by each co-sharer raiyat, after partition.

(8). In case a dispute amongst the co-sharer raiyats, about the quantum of rent payable by each in respect of the new holding created after partition, prayer for partition shall be rejected.

RULE 20. Notice under Sub-section (2) of section 19 –

(1) The notice envisaged under Sub-section (4) of Section 19 shall be in Form No.4.

(2). The number of notices and copies thereof to be filled in under Sub-Rule (1) shall be the same as provided in Sub-rules (2), (3) and (4) of Rule 14.

RULE 21. List under Sub-section (4) of Section 19 –

(1). The list envisaged under Sub-section (4) of Section 19 shall be in Form No.5.

(2). It shall be sent to the Revenue Officer by the Court either through a messenger or by registered post with acknowledgement due.

(3) The number of lists and copies thereof to be sent under Sub-rule (2) shall be as provided in Sub-rules (2), (3) and (4) of Rule 14

RULE 21. The list envisaged under Sub-section (6) of section 15 shall be in Form No.5-A.

CIRCULARS AND NOTIFICATION :-

- Government of Orissa revenue and excise Department No.9359/R., Bhubaneswar, Dated 15th of February, 1999 Re.I-38/99 (subject- Clarification on exemption of Stamp Duty for effecting partition u/s 19(1)C and 19(6) of the OLR Act, 1960.)
- Government of Orissa Rev. Deptt. No.LR(B)-Re-I-@/2003. 16002/R Bhubaneswar, Dated 25th March, 2003 (Institution and Disposal of cases U/S 19(1) C of O.L.R Act, 1960.)
- Government of Orissa Rev. Deptt. No.7530-Re-I-5/05. Dated 28th February, 2006 (Clarification regarding contravention of section 34 of O.C.H. & P.F.L. Act for partition U/S 19(1) C of O.L.R Act, 1960.)

FORM No . 4**Notice of partition of a holding made by a registered instrument****{ See Sub-section(2) of Section 19 and Sub-rule (1) of Rule 20}****Shri.....
.....landlord****Address.....**

We have effected partition among us in respect of the land given below:

Particulars of land District.....**Tahasil.....****Village..... Thana No.....****Khata No..... Survey Plot No.....****Status of land.....****The particulars of partition are shown below :**

Name of Co-sharer raiyat	Area allotted		Rent and Cess demanded	Remarks
	Survey Plot No	Area		
1	2	3	4	5

Signature of Co- sharer/Raiyat.

FORM No . 5**Notice of partition of a holding made by a decree of a Court
{ See Sub-section(4) of Section 19 and Sub-rule (1) of Rule 21}**

From

The Court of

To

The Revenue Officer.....

Sir,

Partition has been effected in the decree of this Court in suit No.....
of the year..... in respect of the land given in the Schedule A appended. A list
of the lands allowed to each share is shown in Schedule B.

Schedule "A"**Particulars of land** **District..... Tahasil.....****Village..... Thana No.....****Khata No..... Survey Plot No.....****Status of land.....****Scheduled "B"**

Name of Co-sharer raiyat	Area allotted		Rent and cess demanded	Remarks
	Survey Plot No	Area		
1	2	3	4	5

Seal.....

Signature of Presiding Officer of the Court.

Date.....

FORM No . 5A**Notice of partition of a holding made by an order of the Revenue Officer****{ See Sub-section(6) of Section 19 and Sub-rule (1) of Rule 21-A }**

From

The Court of

To

The Tahasildar/Sub-registrar.....

Sir,

Partition has been effected by order, dated..... suit No..... of the year..... in respect of the land given in the Schedule A appended. A list of the lands allowed to each share is shown in Schedule B.

Schedule "A"**Particulars of land District..... Tahasil.....****Village..... Thana No.....****Khata No..... Survey Plot No.....****Status of land.....****Scheduled "B"**

Name of Co-sharer raiyat	Area allotted		Rent and cess demanded	Remarks
	Survey Plot No	Area		
1	2	3	4	5

Seal.....

Signature of Presiding Officer of the Court.

Date.....

ADVANTAGES OF 19 (1) C OVER REGISTER PARTITION.

1. Low cost as the registration fees is nill.
2. All the Co-sharer are present and give their mutual consent before the court of competent authority due to which no future dispute arises between the Co-sharer.
3. Due to 19(1)c the dispute between the family is solved earlier but in case of civil cases it was taking long time for settlement of partition cases.
4. The court is more reliable based on the field reality.
5. The land schedule and sketch-map is present as per the field reality.