

CHAPTER VIII.

Preparation of the new A—D Registers.

174. *Defects in the old system of mahalwar registration*—In the course of this settlement the whole question of the system of land registration and the recording of the part interests of co-sharers in an estate was thoroughly sifted and important changes were introduced. The embarrassment caused by this problem in previous settlements can be gathered from paragraphs 411 and 494 of Mr. Maddox's report and from paragraphs 96 to 99 of Mr. James's report. At the Provincial Settlement the principle followed in *khewat* writing was to prepare for each revenue-paying estate a *khewat* based on the entries in the Collector's Registers A and D, and from this *mahalwar khewat* to extract the *mauzawar* or village *khewat*. The Collectorate Registers showed the co-sharers as having certain fractional interests in an estate, but made no attempt to record *pattidari* possession where it existed, or to describe the co-sharers' actual interests in particular villages where those differed from their interests in the estates as a whole. The Provincial Settlement *khewat* seems to have anchored itself to the presumed correctness of the *mahalwar* shares found in the Collectorate Registers. Mr. James in paragraphs 96 to 97 of his report has dealt very clearly with this matter of the specification of shares in the Collectorate Registers, and the confusion which results from an attempt to reconcile these with the actual facts of possession. The *mahalwar* shares are regarded as immutable, whereas in actual fact their value must inevitably change with the lapse of time.

The unfairness of the old system can be illustrated by the case of tanzi no. 236 in the district of Puri; where a proprietor having a separate account based on a *mahalwar* share of 11 pies paid revenue of Rs. 59-5-0 although he only received Rs 53 from his share in the estate. This share was repeatedly sold for arrears of revenue.

175. *Proposals for amendment*—Mr. James's suggestion for future settlements was that the settlement record should be made the authority for extent of interest and that this should be omitted altogether from the Collectors' Registers; further that the village *khewat* should show the revenue assessed on the village as well as that on the whole *mahal*, thus rendering it easy to determine the revenue which each sharer is liable to pay, without the necessity of working out each share in terms of the whole *mahal*.

In this settlement Mr. Mansfield, as Settlement Officer in February 1926, raised the questions whether any attempt should be made at revenue settlement to apportion the liability to revenue among the co-sharer proprietors; and whether the *mahalwar* system of recording shares in the Collectorate Registers should be continued. He pointed out the unfairness as well as the practical difficulties resulting from the registration of *mahalwar* shares which have long ceased to represent the real interests of the co-sharers. The friction which results from this in partition proceedings was particularly stressed. Mr. Mansfield proposed to abolish the recording of the co-sharer's interests as a fraction of the whole estate, and merely to show the interest held by each co-sharer proprietor in each of the *mauzas* separately. In this way a clear account would be given of the interest actually held by each co-sharer in the various lands of the estate, instead of a mere symbolic share in the estate as a whole. It will still be possible to calculate the proportion which each co-sharer's interest bears to the whole of the estate, and this proportion will represent his real share as it existed at the time of preparing the record. In order to effect this change of system Mr. Mansfield recommended the introduction of the combined form of Registers A and D as shown in the Board of Revenue's circular no. 8, dated the 20th June 1915, and proposed that the re-writing of the Collectorate Registers in this new form should be done by the Assistant Settlement Officers simultaneously with revenue settlement.

those officers being specially empowered by the Collector under section 84 of the Land Registration Act, and the settlement *khewat* being treated as "authentic information", under section 22 of the Act with the sanction of the Board. It was not proposed to show the revenue as apportioned among the different co-sharers. Mr. Hubback, as Commissioner, supported the Settlement Officer's proposals, which were accepted by the Board of Revenue and given effect to in March 1927 as regards the temporarily-settled estates and later extended to the permanently-settled estates of the three districts by Government order.

The proprietary *khewats* have been written at this settlement *mauzawar* and strictly according to possession, to avoid the reproach levelled against the Provincial Settlement *khewats* that they merely repeated the incorrect theoretical shares found in the Collectorate Registers.

176. *Procedure in rewriting the registers.*—The procedure in rewriting the new Register A—D was as follows:—

The new registers were prepared in draft on the basis of the settlement *khewats*. An examination was at the same time made of the existing Collectorate Registers, and a list prepared of all the discrepancies, particularly of the new entries made in the D Registers after the preparation of the settlement *khewats*. As rewriting work was taken up along with revenue settlement a combined form of notice was devised, calling upon the proprietors to attend for both purposes, and was served in the manner prescribed in section 28 read with section 50 of the Land Registration Act both on those parties who were entered in the settlement *khewats* and on others whose names were found in Register D. The notice set forth that the parties' presence was necessary for explaining the discrepancies between the present D Registers and the settlement *khewat* and also for making necessary entries in the new D Register, and they were warned of their liability to penalty under section 31 of the Act if they did not attend. The attendance was in general very satisfactory, as the proprietors naturally took an interest in the revenue settlement and rewriting of the A—D Register. When the work was hampered by non-attendance of parties, the power to fine under section 31 was used. On the dates fixed the draft registers were read out to the Parties and the discrepancies with the existing D Registers reconciled after enquiry. When objections arose regular hearings were given and orders passed. After completion of the enquiry and disposal of disputes, if any such corrections as were necessary were made in the draft registers, which was thereafter fair-copied. After preparation the fair copies were checked with the drafts. When these rewriting proceedings had been completed, the existing A—D Registers in the Collectorate Record Room were cancelled. The points in which the new A—D Registers differed from the pre-existing D Register were notified under section 77 of the Land Registration Act.

In the new A—D Register the *mauzas* are arranged in English alphabetical order. As Register C was not rewritten, the *mauzas* number according to this register were not entered, but against each *mauza* was entered the name of the revenue thana and its serial number in the thana. In those areas of Blocks A and B (districts Balasore and Puri) in which the villages had been numbered according to police-stations, the police-station names and numbers were entered and the revenue thana names were also added.

In the temporarily-settled estates the areas were entered in three columns, viz. assessed unassessed and total. The figures for these different columns were taken from the revenue assessment reports.

In the column for "Land revenue original" the revenue of last settlement was entered, and in the column for "Land revenue subsequently altered" the revenue as finally settled at this settlement was entered, without any mention of progressive stages of enhancement where such were allowed.

In dealing with lands that are *samilat* of several estates, the details were shown under the *tauzi* bearing the lowest number, the shares of all the

tauzis being there specified. Under each of the individual tauzis the area entered was a fraction of the total *samilat* area proportionate to that tauzi's share.

177. The number of objections raised and the number of discrepancies between the *khewats* and the existing Collectorate Registers were as follows:—

District.	No. of estates.	No. of discrepancies.	No. of objections	Remarks.
1	2	3	4	5
Cuttack	8,405	29,661	364	Including 21 permanently-settled estates.
Puri	559	2,737	82	Including one permanently-settled estate.
Balasore	2,575	12,959	521	Including 171 permanently-settled estates.
Total	11,539	45,357	967	

The proportion of mistakes is larger than at last settlement when it was only 3.2 per estate. The most common mistake found is the retention of a proprietor's name long after his death, which in some cases occurred 30 years ago.

171. The system of notation used to express the proportionate shares was that laid down by the Doard in 1892, viz. :—

4 beds = 1 kara.

4 karas = 1 ganda.

20 gandas = 1 biswa.

16 biswas = 1 krant.

20 krants = 1 pie.

12 pies = 1 anna.

16 annas = 1 rupee.

Different systems of notation were found to be in use in some localities and in a few instances had been inadvertently adopted in the *khewats*. But the shares were converted into standard notation in the land revenue section.

179. *Rewriting work in permanently-settled estates.*—The rewriting work of the permanently-settled estates was more difficult, the existing registers being very inaccurate, and the proprietors not showing so much interest as in the temporarily-settled estates. The small estates of North Balasore were the most difficult. The entries were largely out of date, and there were often many co-sharer proprietors. In some cases also the land entered under a tauzi in the old registers was hard to identify. The other permanently-settled estates are for the most part large ones in which the law of primogeniture prevails, so that the registers are less complicated. For those estates which had never come under any authoritative settlement, the old registers only showed the total area without any mention of the

villages contained in the estates. In the new A—D Register the village names and areas have been entered. The rewriting was also done of those estates, like Madhupur and Darpan, which were excluded from this settlement, the particulars of villages and their areas being taken from the records of the last settlement. In a very few cases where partitions had been confirmed on the basis of the Revisional Settlement records, after the preparation of the record-of-rights at this settlement, the details of village areas were taken from the existing registers.

180. *Working of the new system of registration.*—In order that the workings of the new A—D Register might not be incomprehensible to the Collectorate staff, a clerk was deputed from each record room to work in the rewriting section of the settlement.

Some inquiries have been made into the experience of the Collectorates with the new form of register, and some criticisms have been made.

In Separate Account cases it is clearly an advantage that the real shares of the individual proprietors should be known, and not merely their theoretical shares. It has been objected by a Collectorate officer that in cases under section 11 of Act XI of 1859 or section 70 of Act VII of 1876 the record-keeper cannot easily check the shares stated by the applicants, and that the Collector has no authority to enquire into the question of assets (note 7 at page 32 of the Sale Laws Manual). Under the old system of registration the share could only be checked theoretically. Under the new system it can, if necessary, be checked by actual computation of the assets, with some additional labour. But generally the parties will agree about the shares. The Collector cannot adjudicate about the shares if these are disputed, but such disputes are very rare. The advantage of the *mauzawar* system is that it enables the proprietors themselves to know more clearly their real shares. A further advantage is that when applications are made under section 10 which should have been brought under another section, this can at once be detected.

Difficulty is experienced in applying section 49 of the Cess Act, 1880, which cannot be done without working out the *mahalwar* shares. I understand, however, that the section is rarely used.

The new system of registration admittedly makes for more work in giving effect to mutations. In making the corrections it has to be seen whether the *mauzawar* arrangement is altered, e.g. whether the possession of a group of proprietors which was previously the same in several *mauzas*, becomes different in different *mauzas*. It will facilitate this work if the parties are instructed to state clearly on their mutation application of what the shares under transfer consist.

Mutation fees have in a few cases to be calculated. It will be possible to work them out from the Asset Registers but this should not be necessary if the parties themselves are asked to state the revenue actually paid on the mutated share. This will generally be known.

The work of calculating costs in partition cases becomes a little more complicated, but no serious difficulty has been encountered. In Cuttack there is a standard scale according to area and for this purpose the areas are calculated to the nearest acre or tenth of an acre according as the cost per acre is above Rs. 2 or not. In Puri, on the suggestion of the Director of Land Records, in calculating costs divisions of less than a *karant* are ignored. It has also been suggested that a ready reckoner would be useful.

There is some greater arithmetical labour involved in preparing partition *goswaras* and tauzi slips but no special difficulties.

In partition cases *mauzawar* registration should enable the courts to arrive at a fair distribution. Under the *mahalwar* system this was sometimes difficult. In one case a co-sharer was recorded for a theoretical *mahalwar* share of 7 annas but actually he was in possession of a specific area the value of which represented only 6 annas of the whole estate. He wanted to receive a 7-anna share on partition but the Board of Revenue held that he only held a 6-anna share. Under the new system of registration

such discrepancies will not arise. It will admittedly involve more trouble in many cases to calculate the *mahalwar* shares for purposes of partition, but under any system it would require more labour to attain greater accuracy. Some difficulty arises in calculating assets for apportioning the revenue. In the settlement asset registers *nijchas* and *nijjote* are valued at village rate, which is generally very lenient. There will be discontent among the co-shares, if some get a larger share of these lands than others, for it is not always possible to divide them equally. In such cases I understand that the court generally resorts to fixing a higher valuation on these lands, although this is not strictly in accordance with section 3 (xv)(b) of the Partition Act. *Anabadi* lands are also sometimes valued, as is indeed provided in section 3 (xv)(b), although this is not done at revenue settlement. These difficulties cannot, of course, be attributed to the new *mauzawar* system of registration, as they are due to the methods of revenue settlement.

There is some demand in the Collectorates for a more convenient record of assets than the detailed asset registers. It will be possible to prepare more compact registers, if necessary, from these detailed registers. It might also be convenient to show in the C Registers the total assets instead of the rental in the column for that purpose. I think it is to be regretted that the *mauzawar* revenue, or else assets, were not entered in the new A—D Registers, at this settlement, as this would have helped the Collectorate staff.*

Another occasion on which the absence of registered *mahalwar* shares is found inconvenient is when it is desired to allot surplus revenue sale-proceeds to individual co-sharer proprietors. Of course, it is always possible to make these payments jointly and this can generally be arranged through a pleader representative, even when the co-sharers belong to different localities.

Critics of the new form of registration should bear in mind that the extra labour which it will create is necessary to secure that fair distribution of shares, which was impossible under the *mahalwar* system, which was simple to work only because it was inaccurate. It is hoped that the proprietors themselves will find it easier to know what their real shares are, and I think that, when the proprietors have become accustomed to the new system, they themselves will generally be able to agree as to the extent of their shares and there will be few occasions when the Collectorate staff will have to work them out.

*The objection to this was that it might lead to the wrong impression that the mauza was separately liable for that revenue.