

Mutation

u/sections 34, 35 of UPLR Act 1901

❑ Transfer of land:

✓ **Sale**

✓ **Gift**

✓ **Family settlement**

✓ **Succession**

✓ **Will [Registration made compulsory by Uttarakhand ZALR amendment Act No. 25 of 2005 dated 31.10.2005]**

○ **Case can be of two kinds:**

➤ **Contested**

➤ **Uncontested**

- ❑ **Every person obtaining possession of any land by succession or transfer (other than a succession or transfer which has been already been recorded u/s 33-A of UPLR Act 1901) [LR Act sec 34(1)]**

- ✓ **Shall report such succession or transfer to the Tahsildar of the Tahsil in which the land is situated [LR Act sec 34(1)]**

- ✓ **If the person so succeeding, or otherwise obtaining possession, is a minor or otherwise disqualified, the guardian or other person who has charge of his property shall make the report u/s 34 of LR Act 1901 [LR Act sec 34(4)]**
- ✓ **No Revenue Court shall entertain a suit or application by the person so succeeding or otherwise obtaining possession until such person has made the report required by this section [LR Act sec 34(5)]**

✓ **Succession or transfer can be of two kinds**

➤ **Undisputed**

➤ **Disputed**

✓ **Undisputed succession can be dealt u/s 33-A of LR Act & also u/s 34 LR Act if a report is made to the Tahsildar Court**

- ✓ **Every report to the Tahsildar u/s 34 of LR Act 1901 shall be in writing shall be signed and dated by the person making it**
[Revenue Court Manual para A-367]

- ✓ **The report shall be made for each village separately**
[Revenue Court Manual para A-368]

- ✓ **If the land lies in more than one tahsil, the tahsildar shall refer the case to the Collector**
[Revenue Court Manual para A-368]

- ✓ **The collector will decide in which Tahsil the enquiry u/s 35 of LR Act 1901 shall be held**
[Revenue Court Manual para A-368]

- ✓ **The report may either be presented to the Tahsildar or sent to him by post**
[Revenue Court Manual para A-369]
- ✓ **This report need not be stamped** **[Revenue Court Manual para A-370]**
- ✓ **The date on which the report is received shall be endorsed by the Tahsildar or**
by such officer as he may appoint **[Revenue Court Manual para A-371]**
- ✓ **The proceedings of mutation can also start on the report of**
Patwari/Lekhpal [LRM para 22(d)]
- ✓ **In case of transfers the Sub-registrar will send a copy of each registry on the**
day of the registration & the Tahsildar will suo moto start the proceedings of
mutation

✓ **The report shall specify [Revenue Court Manual para A-367]:**

➤ **Name of the village**

➤ **Khata No.**

➤ **Name of the Seller**

➤ **Name of the Purchaser**

➤ **Nature of transfer**

➤ **Date of transfer**

➤ **Khet No.**

➤ **Area**

➤ **Land Revenue**

➤ **Category of holding**

➤ **Whether possession has been taken by the purchaser**

- ✓ **RK has a Mislband Register (aakaar patra Ra-5-Ka) for the entry of the cases**
[Para 257 LRM]
- ✓ **RK enters this report in this Akar Patra Ra-5 Ka**
- ✓ **RK will fill columns 1to 5 in the beginning**
- ✓ **Proclamation/Ishthaar/Udghoshanaa is issued,free from charge, from**
Tehsildar Court [Revenue Court Manual para A-373]

✓ **The proclamation shall specify[Revenue Court Manual paraA-374]:**

1. Name of Seller ,parentage & residence

Name of person from whom the right accrued

Name of Buyer ,parentage & residence

Name of person to whom the right accrued

2. Total Land

Khata No

Khasra No

3. Land Revenue

4. Date of Transfer

5. Place where Land is situated

6. Date by which Objections can be filed

7. Date on which the proclamation is issued

✓ **The proclamation shall also require the person who has obtained possession & also any other person who may wish to make an objection**
[Revenue Court Manual paraA-375]

➤ **To attend on the date (being not less than 30 days from the date of issuance of proclamation) specified in the proclamation for producing such evidence in support of his objection**
[Revenue Court Manual paraA-375]

✓ **Where the report relates to mutation by transfer**
[Revenue Court Manual paraA-376]

➤ **A copy of the the proclamation shall be served free of charge on the transferor & his co-sharers simultaneously with the issue of the proclamation**
[Revenue Court Manual paraA-376]

➤ **Or within 15 days of the issuing of proclamation**
[Revenue Court Manual paraA-376]

- ✓ **A copy of the proclamation shall be issued free of charge to the Chairman LMC simultaneously or within 15 days of the issuance of the proclamation [Revenue Court Manual para A-377]**

❑ **How Proclamation will be issued is given u/s197 of LR Act 1901**

- ✓ **Places where it will be displayed(LR Act 197) :-**

- **Court of Tehsil**

- **Near the sold property**

- **If necessary to be advertised by beat of drums**

- ✓ **The buyer will produce an affidavit stating [Revenue Court Manual para A-367]:-**
- **That he/she does not have more than 12 1/2 acres of land in the whole of Uttarakhand including the land bought, & that no action under the Ceiling act has been taken against him [Sec 154, UP ZALR Act]**
- **That the rules regarding SC/ST have not been breached during the process of buying [Secs.157A,157AA,157B,157BB of UP ZALR Act]**
- ✓ **If land is being obtained by means of succession then the above information has not to be given except if a SC wills land to a non SC**

- ✓ **Whether the land has been sold to a foreigner should also be taken in to account:**

- **There cannot be a sale to a foreigner without permission of the State**
[Sec 154A(2) UPZALR Act]

- ✓ **A minimum of 30 days required for objection**
[Revenue Court Manual para A-375]

- ✓ **Proclamation is issued so that any person can file objection**

✓ **If no objection in case of succession:**

➤ **Then Tahsildar issues an order of mutation u/s 35 of UPLR Act 1901
(In accordance with the provisions of UPZALR Act 1950)**

[Revenue Court manual para A-378(a)]

✓ **If succession is disputed then the Tahsildar shall make the necessary summary enquiries & if he finds that that succession has taken place, he shall pass an order u/s 35 of UPLR Act 1901 in accordance with the provisions of UPZALR Act 1950**

[Revenue Court manual para A-378(b)]

- ✓ **If an objection is filed in cases of transfer:**
 - **Then Tahsildar hears parties & take the necessary evidence**
 - **Tahsildar will pass an order of mutation, u/s 35 of LR Act, keeping two things in mind:**
 - **Possession**
 - **Is legal**
- ✓ **If a report has not been filed within 3 months of transaction the Tahsildar can impose a fine (Tawaan) [Sec 38 UPLR Act]**
- ✓ **If mutation is done in favour of a minor then it is necessary to mention the age of the minor in the mutation order [Revenue Court Manual para A-381]**

✓ **RK will enter the order in R-6 register or aakaar patra Ra-6**

✓ **The space left in R-6 should be so much that entries can be made for each village for the next 40 years** **[Para 259 LRM]**

Name of The Court (Nyayalaya Kaa Naam)

Vaad Sankhya

Ram Singh(Purchaser)

Dhara 34/35 Bhu Raa A

Vs

Kushal Singh(Seller)

Judgement (Nirnay)

That the report has been entered in Mislband Register and Proclamation is issued

Niyat teethi beet jane par koi bhee aitraaj nahi hua, tathaa mai is nishkarsh par pahunchataa hoon

Order (Adesh)

Signature of Peethaseen Adhikari

- ✓ **In case of mutation Tahsildar need not go into the complicated question of rights and title**
- ✓ **BOR Reference No. 117-121 LR 74-75, January 6, 1983, Gomti vs Nandan:**
BOR has observed that it is incumbent on Revenue Court to enter name of person best entitled in law to succeed- Complicated question of right and title to be left to regular suit
- ✓ **For example:- need not go into the question whether deed is fraudulent or not**
- **This is a matter which comes within the jurisdiction of Civil Court**
- ✓ **Mutation is a trial of summary (sarsari) nature**
Tahsildar does not go into the legality of title

☐ Name of Khatedar

Khet No

A

110

B

111

C

112

✓ If C says that he is selling his whole share on land to D

➤ Then strike (kharij) out C's name and enter (dahkil) D's name

- ✓ **If C says that he is selling half of his whole share on land to D**
- **Then strike(kharij) out C's name from half of his whole share on land and enter (dahkil) D's name on that half share**
- ✓ **Mutation can be done during Civil Court proceedings**
- ✓ **Appeal against mutation orders in the Tahsildar Court lies with Collector/DM
(Sec 210,LR)**
- ✓ **But by notification SDO exercises this power
[Notification No. UO 877/1 (104)-75-Rajaswa-1, Lucknow. Dated 24 January,
1976]**

✓ **Record of rights made under settlement (Record Operation) presumed to be correct unless proved other wise (Sec 57, UPLR Act)**

✓ **Entries in Khatauni presumed to be correct unless proved other wise (Sec 44, UPLR Act)**

End