

## CHAPTER 9

**Utilisation of the Services of the Special Kanungo or Patwari Muharrir**

For the purpose of making the information contained in the revenue records accessible to the litigating public and to the Courts, a Special Kanungo or Patwari Muharrir has been appointed in all the districts of the Punjab, except Simla. The procedure to be followed in such cases is that the Court in which the suit is pending issues a summons to the Special Kanungo or Patwari Muharrir, who, after preparing his excerpt, goes to the Court on the date fixed, taking with him the revenue records from which the excerpt has been compiled. He is then placed in the witness box. Counsel thus have the opportunity of comparing the excerpt with the originals, and of examining him on any points they choose.

Procedure for obtaining excerpts.

2. Parties who desire to summon the Special Kanungo or Patwari Muharrir as a witness with his records must be required to state succinctly and in writing the point on which information is required, and the application must be sent along with the summons to the Special Kanungo or Patwari Muharrir. The Courts must see that the application is in a readily intelligible form before they issue it, and the practice where it occurs, of sending for the Special Kanungo, or Patwari Muharrir to tell him what is required must be discontinued, though Courts may also issue written instructions, or supplement or correct the application.

Particulars to be supplied to Kanungo or Patwari Muharrir.

3. Courts must be on their guard against using the Kanungo or Patwari Muharrir for purposes for which he is not intended, e.g., he is not to be required to give opinions, he is not to be used as a local Commissioner, or to be asked to provide instances in support of or to refute an alleged custom. Courts must also see that, if the special Kanungo or Patwari Muharrir is required, he is summoned for the first hearing after issues are framed, and not, as sometimes happens at present, at the end of the case. They must also never fail to ask him on oath whether the excerpt is in accordance with the revenue records.

Kanungo or Patwari Muharrir should be utilised for special purposes and only at earlier stages.

4. The excerpt prepared by the Special Kanungo or Patwari Muharrir is not evidence unless proved and cannot be used as such. He cannot be allowed to go to outlying Courts because he cannot take the revenue records

Excerpt to be proved utilizing of Kanungo or Patwari Muharrir by outlying Courts.

with him, and without them there would be no check over his excerpt. It is, however, very desirable that outlying Courts should be able to utilize the Special Kanungo or the Patwari Muharrir, and, as the best practicable method of securing that object, Presiding Officers of outlying Courts may issue either interrogatories for the Special Kanungo or Patwari Muharrir or an open Commission to a senior official at headquarters ordinarily and, unless there is some special reason to the contrary, the Senior Subordinate Judge. This official, who will have other duties and is described in the instructions appended as the officer-in-charge, will then comply with the directions given, summon the Special Kanungo or Patwari Muharrir, record his statement on oath and make the return to the Court. In this connection attention is drawn to Order XXVI Rule 18 (1), of the Code of Civil Procedure. The issue of a Commission should not become a source of unnecessary delay, and the officer-in-charge should in the absence of very strong reasons proceed in the absence of parties if they do not appear. Parties should be informed that their appearance at headquarters is optional if interrogatories are issued.

5. The following instructions have been issued for the guidance of the Courts and of the Special Kanungo or Patwari Muharrir and it will be the immediate duty of the officer-in-charge to see that these instructions are followed:—

INSTRUCTIONS REGARDING THE UTILIZATION OF THE  
SERVICES OF THE SPECIAL KANUNGO OR PATWARI  
MUHARRIR

Application  
should be  
made to  
Court.

(i) Applications for the service of the Special Kanungo or Patwari Muharrir must be made to the Court and may not be made direct to the special Kanungo or Patwari Muharrir.

It should  
specify the  
points of  
information

(ii) Such applications must state clearly the point on which information is required, and if this condition is not fulfilled they will be liable to be returned for amendment. They may, however, be supplemented or corrected by the Court.

Fees.

<sup>[37]</sup>(iii) Wherever an application is sent to the Special Kanungo or Patwari Muharrir, he must, at the same time, be summoned as a witness and the applicant must at once deposit into Court fee for evidence which is Rs.3/- and excerpt fee of Rs.6/- for entries is one Jamabandi or Misl-i-Haquiati for the first 15 pages.]

*Note.*—If the Special Kanungo or Patwari Muharrir is only required to produce a revenue record or if he is only summoned with the original revenue record in order to verify whether a copy is correct, an evidence fee of Rs. 3 only will suffice.

This deposits shall be credited at once into the treasury under the head "XXI-Administration of Justice—General Fees, Fines and Forfeitures--other General Fees, Fines and Forfeitures "and Particulars of the credit noted on the application and the summons issued to the special Qanungo or Patwari Moharrir. No summons shall be issued until this amount is paid by the party concerned and credited into the treasury.

(iv) Courts to which applications are made must see that they are made promptly (within a short time to be fixed by the Court after the date on which issues are framed) so that the Special Kanungo, or Patwari Muharrir may be ready with his excerpt and to give evidence on the next date fixed.

Application should be made in time.

(v) Courts must remember that unless proved the excerpt of the Special Kanungo or Patwari Muharrir is not evidence and must not be treated as such. The Special Kanungo or Patwari Muharrir must, when he goes to Court always bring with him the original records from which his excerpt has been compiled, so that they may be available for comparison. He must always be put on oath, and be asked to say whether the excerpt is a true copy of a portion of the original records. The excerpts must be a correct copy of such portions of the revenue records as are relevant and not merely a summary or paraphrase.

Excerpt should be a true copy and should be proved.

(vi) The Court should, as a rule, compare, with the original records some of the entries in the abstract and initial and date those thus compared.

Comparison with original.

(vii)<sup>[38]</sup> [The fee of Rs.6/- for entries in one Jamabandi or Nisl-i-Haquiati for the first 15 pages will, also cover the cost of search. This sum of Rs.6/- should be deposited by the applicant at the time of summoning the special Kanungo or Patwari Muharrir as a witness and the extra fee, if any, at the rate of Rs.3/- for additional entries in any Jamabandi or Misl-i-Haquiati for the next 15 pages, or a part thereof should be recovered at the hearing.]

Fees.

Register kept by Kanungo or Patwari Muharrir.

Register kept by Court.

(viii) A register in form "A" annexed is prescribed for the special Kanungo or Patwari Muharrir.

(ix) A very simple form of register in form "B" is prescribed for Courts using the Special Kanungo or Patwari Muharrir. The main objects of it are to facilitate inspection and to provide, if necessary, means of checking that of the Special Kanungo or Patwari Muharrir and to verify the amounts credited into the treasury.

Each entry in the Register shall be attested by the residing Officer of the Court, in the column provided for the purpose, in token that the amount has been credited to Government as required by rule (iii).

(x) If the application is made to a Court, which is not situated at the district headquarters, the

Court will forward the application to the officer-in-charge together with a certificate that the fee of Rs. 6/- has been recovered and credited to Government as in rule (iii), and will either issue an open Commission to him or will send interrogatories.

Procedure of officer-in-Charge when excerpt required by outlying Court.

(xi) The officer-in-charge will then transmit application to the Special Kanungo or Patwari Muharrir together with the interrogatories, if any, and will call upon him to prepare the excerpt required and to attend to give evidence. When he attends, his evidence, whether in the form of answers to interrogatories or other wise, must be recorded on oath. The officer-in-charge must see that the Special Kanungo or Patwari complies with rule (v) above, and his attention is particularly drawn to the provisions of Order XXVI, rule 18. The examination of the Special Kanungo or Patwari Muharrir must not be postponed for the absence of parties. The outlying Court must inform parties that their presence at Sadar is unnecessary if interrogatories have been issued.

Procedure of Officer-in-Charge, when excerpt required by outlying

(xii) When the evidence has been recorded, the officer-in-charge, will fix the excerpt fee and the application will be returned with the evidence and the report, if any, together with an intimation of the amount of the excerpt fee to the Court of issue. Any additional excerpt fee payable will be recovered from the party concerned at the next hearing before the Special Kanungo's or Patwari Muharrir's evidence is admitted to the record and will be credited to the Government in the Treasury by the Court in the manner prescribed in rule (iii) above.

Purpose for which Kanungo or Patwari Muharrir can be utilized.

(xiii) The officer-in-charge, and the Courts must understand that the Special Kanungo or Patwari Muharrir is to be used only for the purpose of obtaining information which is not readily available. Thus he must not be asked to prepare copies of pedigree-tables or of histories of villages, which can be obtained from the Copying Agency. Nor must he be required to search for instances in support of or against an alleged custom, or be used as a local Commisioner.

Kanungo or Patwari Muharrir to report when he is utilised against rules.

(xiv) The Special Kanungo or Patwari Muharrir should report atonce to the officer-in-charge any case in which he considers that rule (xiii) is being infringed.

Duty of officer-in-charge.

(xv) It is the duty of the officer-in-charge, to control generally the work of the Special Kanungo or Patwari Muharrir and the use made of him by the Courts and to report any irregularities to the District Judge.

Inspection Book.

(xvi) An inspection book in form C for recording notes on inspection of Courts will be maintained and kept in the office of the District Judge, but it may be used either by him or by the officer-in-charge.

Duty of District

(xvii) The District Judge is expected to watch the system carefully and to record his insepction notes in this inspection book.

Serial No.	1	
Date of receipt of summons from Court.	2	

REGISTER-A (FOR SPECIAL KANUNGO OR PATWARI MUHARRIR

Name of Court	<b>3</b>	
Number and year of institution of suit.	<b>4</b>	
Names of parties.	<b>5</b>	
Date fixed for hearing	<b>6</b>	
Brief description of kind of evidence required	<b>7</b>	
Amount of evidence fee and consolidated excerpt fee recovered in advance.	<b>8</b>	
Date of receipt.	<b>9</b>	
Amount of additional excerpt fee recovered at the hearing.	<b>10</b>	
Date of receipt	<b>11</b>	
Total of columns 8 and 10	<b>12</b>	
Attestation of the Presiding Officer of the Court.	<b>13</b>	
REMARKS	<b>14</b>	

Note.- Column 12 should be totalled six monthly.

REGISTER-B (FOR COURTS)

Serial No.	<b>1</b>	
Number and year of institution of suits.	<b>2</b>	
Names of parties.	<b>3</b>	
Brief description of kind of evidence required	<b>4</b>	
Date of application	<b>5</b>	
Date of hearing	<b>6</b>	
Amount of evidence and consolidated excerpt fee recovered in advance.	<b>7</b>	
Date of receipt.	<b>8</b>	
Amount of additional excerpt fee recovered at the hearing.	<b>9</b>	
Date of recovery	<b>10</b>	
Total of columns 7 and 9	<b>11</b>	
Attestation of the Presiding Officer of the Court.	<b>12</b>	
Date of Credit into the Treasury.	<b>13</b>	
REMARKS	<b>14</b>	

NOTE=Column 11 should be totalled Six monthly.  
REGISTER-A (FOR SPECIAL KANUNGO OR PATWARI MUHARRIR

Serial No.	<b>1</b>	
Number and year of case	<b>2</b>	
Names of Court	<b>3</b>	
Date of Inspection	<b>4</b>	
Remarks and order, if any Passed.	<b>5</b>	

NOTE-The Register will be kept in the Office of the District Judge, but will be used either by him or by the officer in charge for Recording inspection Notes.