



136L. (1) The patti of each sharer shall be made as compact as possible: Each patti to be made as compact as possible.

Provided that, so far as may be compatible with fairness of partition, lands held in severalty shall be left in the possession of the parties holding the same.

(2) No partition shall be disallowed solely on the ground of incompactness.

136M. (1) If in making the partition it be necessary to include in any patti the land occupied by a dwelling-house or other building in the possession of another co-sharer, such other co-sharer shall be allowed to retain it, with any buildings thereon, on condition of his paying a reasonable ground-rent for it to the sharer into whose patti it may fall. Rule when house of one sharer is included in the patti of another.

(2) The limits of such land and the rent to be paid for it shall be fixed by the Deputy Commissioner.

136N. (1) No sir-land belonging to any co-sharer shall be included in the patti assigned on partition to another co-sharer unless with the consent of the co-sharer who cultivates it, or unless the partition cannot otherwise be conveniently carried out. Sir-land belonging to one sharer not to be included without his consent in the patti of another sharer.

(2) If such land be so included and after partition such co-sharer continue to cultivate it, he shall be recorded as an occupancy-tenant in respect of such land and his rent shall be fixed by order of the Deputy Commissioner.

136O. (1) Tanks, wells, water-courses and embankments shall be treated as attached to the land for the benefit of which they were originally made. Rule as to tanks, wells and other irrigation-works.

(2) Where, from the extent, situation or construction of such works, it is found necessary that they should continue the joint property of the proprietors of two or more of the pattis into which the mahal may be divided, the Deputy Commissioner shall determine the extent to which the proprietors of each patti may make use of the said works, and the proportion of the charges for repairs of such works to be borne by such proprietors respectively, and the manner in which the profits, if any, derived from such works shall be divided.

136P. (1) Places of worship and burial-grounds held in common previous to the partition of a mahal shall continue to be so held unless the parties otherwise agree among themselves. Rule regarding places of worship and burial-grounds.



(2) In such cases they shall state in writing the agreement into which they have entered, and such writing shall be filed with the record.

Deputy Commissioner may dismiss case for non-payment of costs or may quash proceedings.

136Q. (1) If the costs to be paid by the applicant for partition are not paid within a time to be fixed by the Deputy Commissioner, the case may be dismissed.

(2) If at any stage of the proceedings there appears to be any reason for stopping the partition, the Deputy Commissioner may stay the partition and order the proceedings to be quashed, recording his reasons for so doing.

Commissioner's sanction to partition necessary.

136R. On completion of the partition the Deputy Commissioner shall submit the proceedings to the Commissioner, who may either uphold the partition proposed or modify it or quash the proceedings; and a partition shall not take effect until it has been sanctioned by him.

When partition sanctioned, notification to be published.

136S. (1) On a partition being sanctioned by the Commissioner, the Deputy Commissioner shall publish a notification of the fact at his office and at some conspicuous place in the village or villages of the mahal of which the partitioned pattis formed part.

(2) The partition shall take effect from the first day of the agricultural year next after the date of such notification.

Perfect Partition.

Applications for perfect partition to be made to Settlement-officer.

136T. (1) Applications for perfect partition shall be made, in such form as may be prescribed by the Chief Commissioner, to the Settlement-officer charged with the settlement of the area in which the mahal is situate.

(2) Such applications must show that the share which it is desired to have formed into a separate mahal is already held in severalty saving such portion of it as may be impartible. An application failing to show this shall be rejected.

Settlement-officer may declare shares in mahals to be separate mahals.

136U. (1) Subject to any rules which may be made by the Chief Commissioner, the Settlement officer, if he is satisfied of the truth of the matters stated in the application, may, if he thinks fit, declare the share to be a separate mahal and may assess it separately to land-revenue :



Provided that no share shall be declared to be a separate mahal till the proprietors of other shares in the mahal have been given an opportunity of objecting to its perfect partition.

(2) Except with the sanction of the Commissioner an incompact estate shall not be declared to be a separate mahal.

Supplemental Provisions.

136V. The Chief Commissioner may make rules regarding—
(a) the form in which applications for partition shall be made;

Power to make rules regarding partition proceedings.

(b) the procedure to be followed in referring matters to arbitrators and in giving effect to the award of arbitrators;

(c) the costs of partition and the mode in which costs are to be apportioned; and,

(d) generally, for carrying out the provisions of this Chapter.

136W. Act XIX of 1863 (*an Act to consolidate and amend the Law relating to the partition of Estates paying revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal*) is hereby repealed with effect from the commencement of the Central Provinces Land-Revenue Act, 1889.

Repeal of Act XIX of 1863.



The Law of Partition in Assam REGULATION I OF 1886

PASSED BY THE GOVERNOR GENERAL OF INDIA.

CHAPTER VI.

PARTITION AND UNION OF REVENUE-PAYING ESTATES.

"Perfect partition" and "imperfect partition" defined.

Persons entitled to partition.

96. Partition is either perfect or imperfect. "Perfect partition" means the division of a revenue-paying estate into two or more such estates, each separately liable for the revenue assessed thereon. "Imperfect partition" means the division of a revenue-paying estate into two or more portions jointly liable for the revenue assessed on the entire estate.

97. (1) Every recorded proprietor of a permanently-settled estate, and every recorded landholder of a temporarily-settled estate, may, if he is in actual possession of the interest in respect of which he desires partition, claim perfect or imperfect partition of the estate :

Provided that—

- (a) no person shall be entitled to apply for perfect partition if the result of such partition would be to form a separate estate, liable for an annual amount of revenue less than five rupees ;
- (b) no person shall be entitled to apply for imperfect partition of an estate unless with the consent of recorded co-sharers holding in the aggregate more than one-half of the estate ;
- (c) a person may claim partition only in so far as the partition can be effected in accordance with the provisions of this chapter.

(2) When two or more proprietors or landholders would be entitled under sub-section (1) to partition in respect of their respective interests in the estate, they may jointly claim partition in respect of the aggregate of their interests.



98. Every application for perfect partition shall be in writing, shall be presented to the Deputy Commissioner, and shall specify the area of the estate, the applicant's interest therein and the names of the other proprietors or landholders.

Application for perfect partition.

99. (1) The Deputy Commissioner shall, if the application is in order and not open to objection on the face of it, publish a proclamation at his office, and at some conspicuous place on the estate to which the application relates; and shall serve a notice on all such of the recorded proprietors or landholders of the estate as have not joined in the application, requiring any of them in possession who may object to the partition to appear before him and state their objections, on a day to be specified in the proclamation and notice, not being less than thirty or more than sixty days from the date on which the proclamation is issued.

Notification of application.

(2) Where, from any cause, notice cannot be personally served on any proprietor or landholder, the proclamation shall be deemed sufficient notice under this section.

100. (1) If an objection preferred as required under section 99 raises any question of title which has not been already determined by a Court of competent jurisdiction, the Deputy Commissioner shall stay his proceedings for such time as, in his opinion, is sufficient to admit of a suit being instituted in the Civil Court to try the objection.

Objection on question of title.

(2) A Deputy Commissioner staying his proceedings under this section shall make an order requiring the objector, or, if for any reason he deems it more equitable, the applicant, to institute such a suit within the time fixed, and, in the event of such a suit not being instituted within that time, may, in his discretion, disallow the objection, or dismiss the application, as the case may be.

(3) On a suit being instituted to try any objection under this section, the Deputy Commissioner shall, with reference to the objection, be guided by the orders passed by the Civil Court in the suit.

101. If any objection, other than an objection of the nature referred to in section 100, is preferred as aforesaid to the partition, the Deputy Commissioner shall dispose of it himself; unless for any reason he thinks fit to require that it be sub-

Other objections how dealt with.



mitted to a Civil Court for adjudication, in which event the provisions of section 100 shall apply to the objection.

Proceedings
of Deputy
Commissioner after
objections
have been
disposed of.

102. When the period specified under section 99 has expired, and the objections (if any) made have been disposed of by the Deputy Commissioner or by the Civil Court, as the case may be, the Deputy Commissioner shall, if no such objection has been allowed, proceed to make the partition :

Provided that the Deputy Commissioner may, in his discretion in order to admit of the institution of an appeal from any decision regarding an objection, or for any other reason he deems sufficient, further postpone his proceedings.

Mode of
partition.

103. The Deputy Commissioner may give the parties the option of making the partition themselves, or of appointing arbitrators for the purpose; or he may make the partition himself.

Power to
enter on land
for purposes
of partition.

104. In making partitions the Deputy Commissioner, and any person appointed by him, shall have the same powers for entry on the land under partition, for making out the boundaries, surveying and other purposes, as have been conferred on Survey-officers by or under this Regulation.

Partition of
lands held
only in sever-
alty.

105. Where there are no lands held in common, the lands held in severalty by the applicant for partition shall be declared a separate estate, and shall be separately assessed to the Government revenue.

Partition of
lands some
of which are
held in com-
mon.

106. (1) Where some of the lands are held in common, the Deputy Commissioner shall allot to the applicant for partition his share of those lands in accordance with village-custom, if any such exists. If no such custom exists, the Deputy Commissioner shall make such division as may secure to the applicant his fair portion of the common lands.

(2) The portion of the common lands falling by the partition to the share of the applicant shall be added to the land held by him in severalty, and the aggregate thus formed shall be declared a separate estate, and shall be separately assessed to the Government revenue.

Partition
where all
lands held in
common.

107. Where all the lands are held in common, the Deputy Commissioner shall make such a partition as may secure to the applicant his fair share of the estate, and the land allotted to him shall be declared a separate estate, and shall be separately assessed to the Government revenue.



APPENDIX.

555

108. In making a partition under section 105 or section 106, the Deputy Commissioner shall give effect to any transfer of lands held in severalty, forming part of the estate, agreed to by the parties and made before the declaration of the partition.

Transfers to be effectuated in making partition.

109. In all cases each estate shall be made as compact as possible:

Estates to be compact.

Provided that, except with the sanction of the Commissioner, or where there is no Commissioner, with the sanction of the Chief Commissioner, no partition shall be disallowed solely on the ground of incompactness.

110. (1) If, in making a partition, it is necessary to include in the estate assigned to one sharer the land occupied by a dwelling house or other building in the possession of another co-sharer, that other co-sharer shall be allowed to retain it, with any buildings thereon, on condition of his paying a reasonable groundrent for it to the sharer into whose portion it may fall.

Rule when building of one sharer is included in estate assigned to another.

(2) The limits of the land, and the rent to be paid for it, shall be fixed by the Deputy Commissioner.

111. (1) Tanks, wells, water-courses and embankments shall be considered as attached to the land for the benefit of which they were originally made.

Rule as to tanks, wells, water-courses and embankments.

(2) Where, from the extent, situation or construction of any such work, it is found necessary that it should continue the joint property of the proprietors or landholders of two or more of the estates into which the estate is divided, the Deputy Commissioner shall determine the extent to which the proprietors or landholders of each estate may make use of the work, and the proportion of the charges for repairs to be borne by them respectively, and the manner in which the profits, if any, derived from the work, are to be divided.

112. (1) Places of worship and burial-grounds, held in common previous to the partition of an estate, shall continue to be so held, unless the parties otherwise agree among themselves.

Rule as to places of worship and burial-grounds.

(2) In such cases they shall state in writing the agreement into which they have entered, and their statement shall be filed with the record.



Determina-
tion of reve-
nue payable
by each por-
tion of di-
vided estate.

113. (1) The amount of revenue to be paid by each portion of the divided estate shall be determined by the Deputy Commissioner: Provided that the aggregate revenue of the new estates shall not exceed the revenue assessed on the estate immediately before partition.

(2) The proprietors or landholders of each of the new estates shall be jointly and severally liable for the portion of the revenue assessed on their estate, whether new acceptances are taken from them or not.

Costs.

114. (1) The Chief Commissioner shall make rules for determining the costs of partitions under this Act, the mode in which those costs are to be apportioned, and the parties by whom and the stage of the proceedings at which they are to be paid:—

Provided that the cost of surveying an estate, when a survey is necessary for the purpose of partition, shall be paid, rateably, by all the proprietors or landholders of the estate according to their interests therein.

(2) If the costs to be paid by the applicant for partition are not paid within a time to be fixed by the Deputy Commissioner subject to the rules made under this section, the case may be struck off the file.

Power to
stay parti-
tion.

115. If at any stage of the proceedings there appears to be any reason for stopping the partition, the Deputy Commissioner may, of his own motion, stay the partition and order the proceedings to be quashed.

Proclamation
of partition.

116. On completion of a partition the Deputy Commissioner shall publish a proclamation of the fact at his office and at some conspicuous place on each of the new estates or in the estate of which they originally formed part;

and the partition shall take effect from the beginning of the agricultural year next after the date of the proclamation.

Appeal from
decision of
Deputy Com-
missioner.

117. An appeal against the decision of the Deputy Commissioner making a partition shall lie to the Commissioner of the Division, or, where there is no Commissioner, to the Chief Commissioner, within one year from the date on which the partition takes effect.



118. Where the revenue is fraudulently or erroneously distributed at the time of the partition, the Chief Commissioner may, within twelve years from the time of discovery of the fraud or error, order a new allotment of the revenue upon the several estates into which the estate has been divided, on an estimate of the assets of each estate at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

Power to order new allotment of revenue on proof of fraud or error in first distribution.

119. Imperfect partition shall be carried out according to the provisions of the preceding sections, so far as they are applicable.

Making of imperfect partition.

120. If a recorded proprietor or landholder is in possession of two or more revenue-paying estates, he may, subject to the rules framed under section 121, claim to have those estates united, and to hold them as a single estate.

Persons entitled to union.

121. The Chief Commissioner may make rules, not being inconsistent with this Regulation, as to the procedure and principles to be observed in dealing with applications for, and in carrying out, the partition and union of estates, and in assessing the land-revenue on estates divided.

Power to make rules.



The Law of Partition in Madras REGULATION XXV OF 1802.

Proprietors of land may transfer proprietary right in whole or part of their zamíndáris.

Restrictions under which such transfer is to be made.

Accounts to be furnished in forming part of zamíndári into separate estate.

Principle regulating assessment on part to be separated.

8. Proprietors of land shall be at free liberty to transfer, without the previous consent of the Government, or of any other authority, to whomever they may think proper, by sale, gift or otherwise, their proprietary right in the whole or in any part of their zamíndáris; such transfers of land shall be valid, and shall be respected by the Courts of Judicature and by the officers of Government; provided they shall not be repugnant to the Muhammadan or to the Hindu laws, or to the regulations of the British Government. But unless such sale, gift or transfer shall have been regularly registered at the office of the Collector, and unless the public assessment shall have been previously determined and fixed on such separated portions of land by the Collector, such sale, gift or transfer shall be of no legal force or effect, nor shall such transaction exempt a zamíndár from the payment of any part of the public land-tax assessed on the entire zamíndári previously to such transfer, but the whole zamíndári shall continue to be answerable for the total land-tax, in the same manner as if no such transaction had occurred.

9. Where a part of a zamíndári may be sold for the liquidation of arrear of the public assessment, or for the satisfaction of a decree of a Court of Judicature, or where part of a zamíndári may be transferred by sale, gift or otherwise, the zamíndár or landholder shall furnish to the Collector true and correct accounts of the entire zamíndári, and of the portion of the zamíndári about to be separated, for a period of time not less than the three years preceding such sale or transfer, in order that the due proportion of the public revenue may be fixed thereon.

The assessment to be fixed in this case on the separated lands shall always bear the same proportion to the actual value of the separated portion as the total permanent jamá on the zamíndári bears to the actual value of the whole zamíndári.



REGULATION II OF 1803.

17. Collectors shall be held responsible for justly and equitably apportioning the permanent assessment on all subdivisions of estates, and the amount of such assessment shall be regulated at a rate proportionate to the value which such subdivisions of estates bear to the gross assets of the whole estates.

Collectors to be responsible for apportioning assessment on subdivisions;

18. Collectors, at the time they transmit statements of the public assessment so apportioned on subdivisions of estates for the consideration of the Board of Revenue, shall furnish the proprietors of the estates in question with the amount of the assessment so apportioned; and where the proprietors may object and appeal from the assessment proposed by the Collectors for the subdivisions of the said estate, Collectors shall immediately forward the same, with their remarks, to the Board of Revenue.

to furnish proprietors with amount so apportioned. Appeal therefrom to be forwarded to Board.

* * * * *
20. Collectors, on receipt of a decree of a Court of Judicature ordering land paying revenue to Government to be sold, shall proceed to attach a sufficient portion of the said lands to answer the amount of the decree, in such mode as may be prescribed for recovery of arrears of revenue by the regulations, and shall immediately report such attachment to the Board of Revenue.

Attachments of land to be reported to Board.

21. In attaching portions of estates for arrears of revenue, or in consequence of a decree of a Court of Judicature, Collectors shall be careful to form the subdivisions compact, selecting such villages and lands as may be situated contiguously to each other. Collectors shall moreover have in view the nature of the soil and available resources of the different lands, and shall be careful to include, as nearly as may be practicable, equal portions of land with contracted means of improvement, and of lands with extensive means of improvement.

Rules to be observed in attaching portions of estates.

22. In forming subdivisions of estates, Collectors shall be careful to preserve all the lands watered by one tank or water-course in the same subdivision; and where it may be necessary to deviate from this rule, Collectors shall fully explain such necessity to the Board of Revenue, and wait the orders of the Board on their reference, previously to concluding the arrangement.

In forming subdivisions, lands watered by one tank to be kept in same subdivision.



Registers of
transfers of
land.

23. Collectors shall keep registers of all subdivisions of estates, and of all transfers of landed property, in a form to be submitted to, and to be approved by, the Board of Revenue.

Register of
alienated
lands.

24. Collectors shall keep, in a form to be approved by the Board of Revenue, registers of all alienated lands paying revenue to Government, or exempt from the payment of public revenue. The registers shall be kept in the mode and manner prescribed by the Regulations already passed, or to be passed, for that purpose.

MADRAS ACT II OF 1864.

Sale of land
for arrears.

44. It shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to sell the whole or any portion of the land of a defaulter in discharge of arrear of revenue: provided always that, so far as may be practicable, no larger section in the land shall be sold than may be sufficient to discharge the arrears with interest, and expenses of attachment, management and sale.

Apportion-
ment of as-
sessment on
subdivision.

45. Where only a part of a landed estate held under a sanad-i-milkfyat-i-istimrâr, or otherwise subject to the payment of a lump assessment, may be sold, the assessment upon such part shall be apportioned by the Collector previous to sale in manner following :—

The amount of revenue to be assessed on each division shall bear the same proportion to the actual value of such division as the total amount of the revenue of the whole estate may bear to the total actual value of the entire estate previous to such division.

Production of
accounts.

To this end the Collector shall have power to demand from landholders and from the karnams of villages accounts of the produce and of the charges attending the management of lands to be divided; such landholders and karnams shall furnish the said accounts when required for a period of not less than three years next preceding the then current year; where the landholder may refuse or unreasonably delay to comply with such demand, so as to prevent the assessment being fixed on such divided portions of land, the Collector shall proceed to sell the entire estate.



46. The amount of the permanent land-revenue to be assessed by the Collector on portions of a divided estate held under a sanad-i-milkiyat-i-istimrar, or otherwise subject to the payment of a lump assessment, shall not be valid until such amount may have been confirmed by the authority of the Board of Revenue signified in writing.

Confirmation of apportionment by Board.

ACT NO. I OF 1876.

(Received the Governor's assent on the 12th February, 1876, and the Governor General's assent on the 3rd March, 1876, and took effect from the 1st September, 1876).

AN ACT TO MAKE BETTER PROVISION FOR THE SEPARATE ASSESSMENT OF ALIENATED PORTIONS OF PERMANENTLY- SETTLED ESTATES.

WHEREAS it is desirable to make better provision for the separate assessment to land revenue of portions of permanently-settled estates alienated by sale or otherwise; it is hereby enacted as follows:—

Preamble.

1. The alienor or alienee of any portion of a permanently-settled estate, or the representative of any such alienor or alienee, may apply to the Collector of the district in which such portion is situate for its registration in the name of the alienee and for its separate assessment in respect of land-revenue.

Application for registry and separate assessment.

2. The Collector shall thereupon hold an inquiry as to who is the present owner of the property in respect of which the application is made.

Inquiry by Collector.

For the purposes of such inquiry the Collector shall publish a notice in the local Gazette, in three successive issues, that the application has been made, and that, unless cause is shown to the contrary within sixty days from the date of notice, such separate assessment will be made.

Procedure as to inquiry.

He shall also cause notice of the inquiry to be given to any alienor or alienee who has not joined in the application.

If on such inquiry it appears that the alienation has taken place and that all the parties to such alienation concur in applying for the separate assessment of the portion alienated, and if objection is not taken by any person interested in the estate, or being taken is disallowed by the Collector, the Col-

In what case registry and separate assessment should be made.

lector shall proceed to register the alienated portion in the name of the alienee, and to apportion the assessment of such alienated portion in the manner provided in section 45 of Madras Act II of 1864, subject to the sanction laid down in section 46 of that Act.

Proportion of land-revenue to be deducted.

3. Upon such assessment being declared there shall be deducted from the land-revenue payable in respect of such estate an amount equal to the sum assessed on the portion so separately assessed.

Assessed part not liable for arrears due by estate, nor estate for arrears due by part assessed.

4. Upon such assessment being made, the portion so assessed shall no longer be liable in respect of arrears of revenue due by the estate of which it formed a part; nor shall such estate be liable in respect of the portion so assessed.

Persons aggrieved by registration may sue in Civil Court.

5. Any person aggrieved by the fact of the separate registration of such portion may sue in a Civil Court for a decree declaring that such separate registration ought not to be made.

Persons aggrieved by refusal to register may sue in Civil Court.

6. Any person aggrieved by the Collector's refusal to register may sue in a Civil Court for a decree declaring that such separate registration ought to be made.

Persons aggrieved by assessment may appeal to Revenue Board.

7. Any person aggrieved by the apportionment of the assessment under section 2 of this Act, may appeal to the Board of Revenue within ninety days from the date of the declaration of such assessment; and the order of the Board of Revenue shall be final.

Power to re-adjust assessment.

8. The Governor in Council may at any time, if it appears that there has been fraud or material error in the apportionment of such separate assessment, cause the same to be re-adjusted.

Regulation I of 1819 repealed.

9. Regulation I of 1819 is hereby repealed.



The Law of Partition in Bombay BOMBAY ACT V OF 1879.

PARTITION.

113. The following rules shall be enforced at the partition of any estate paying land-revenue to Government (namely) :—

Partition of
an estate
paying reve-
nue to Gov-
ernment.

(1) When land is sub-divided by the Court, the sub-divisions may be recorded according to the Court's order as plot numbers but the parties themselves are to be left to preserve the boundaries of the new sub-divisions, for which the Government officers are in no way responsible. (G. R. No. 2595, dated 29th May 1872).

(2) The following are orders under which a Surveyor is appointed in each collectorate and who is generally employed in making partitions of estates under the Civil Court's decree.

In each Collectorate a competent and trustworthy Surveyor has been appointed, thoroughly acquainted with the details of all branches of the Revenue Survey, so that a Collector may not be compelled to call on the Superintendent of Survey, after the Survey establishments have left the District, to send Surveyors to do odd pieces of Survey works.

In the division of numbers under decrees of Civil Courts, in the cases of compensation for land taken for railway purposes or public works, and in the correction of Survey maps and papers consequent on these and similar alterations, and in connection with forest reserves, there is generally ample employment for a Surveyor in each Collectorate. But there is nothing to prevent a Collector from employing the Surveyor in any other way in which his services can be utilized, provided that the duty for which he is specially employed receives his first attention. It would therefore add to the value of the Surveyor if he could take levels and make estimates of quantities, or a survey for a clear road; but these qualifications should not be insisted on, and might perhaps be acquired sufficiently after appointment. In general it will not be required that the Surveyor should have a knowledge of English, and in any case an imperfect knowledge of English should be preferred to an imperfect knowledge of Survey work. (G. R. No. 3861, dated 19th October 1868).

The appointment of Huzur Surveyor rests with the Collector of the district and the only condition attached to it is that the Collector's nominee should be a man on the Establishment of a Superintendent of Survey. The Collector must of course refer to the Superintendent but he can make his selection and is not bound to accept any particular individual named by that officer. (G. R. No. 521, dated 23rd January 1892).



(1) the estate shall be divided as far as possible according to survey numbers without sub-dividing any number ; but if the partition cannot be completely effected without sub-dividing a number, such sub-division may be made by the Collector, subject to the provision of section 98 ;

(2) any number, or sub-division of a number, which may remain over after the partition has been carried out, as far as possible, according to the last rule, and which is incapable of sub-division or of further sub-division owing to the provision of section 98, shall be made over to one of the sharers in consideration of his paying to the other sharers the value in money of their shares in the same, or shall be sold and the proceeds divided amongst all the sharers, or otherwise disposed of, as the Collector thinks fit ;

(3) the expenses necessarily and properly incurred in making such partition shall be recoverable as a revenue demand in such proportions as the Collector thinks fit from the sharers at whose request it is made, or from the persons interested in such partition.

(1) *Recognition of rights in numbers of less than minimum extent.*—In the division of an estate paying land revenue to Government the Collector is bound by the rules laid down in section 113 of the Land Revenue Code whenever they are applicable. If a Court assigns rights in specified arrears in Survey numbers of less extent than the minima prescribed under section 98 of the Code these rights cannot be registered in the Government accounts, or be otherwise recognized by Government. (G. R. No. 7052, dated 23rd November 1881).

(2) *Partition of Inams under Summary Settlement.*—In cases of Inam land and villages held under the Summary Settlement, the Collector shall be bound to accord separate entry, to the sharers, of their shares,

(a) in every case of partition supported by a deed of consent ;

(b) in every case supported by a decree of the Civil Court. (G. R. No. 3483, dated 5th May 1883).

(3) *Of Service Inams.*—Having regard to the decision of the Bombay High Court in *Mancharam v. Pranshankar* (I. L. R., 6 Bombay, 298, 1882), there seems no objection to the provisions of section 113 of the land Revenue Code being extended to the cases of Service Inam lands paying only Judi to Government, provided that by the partition effected under the above section there will be no alienation of the property out of the family by which the services for which it was granted are to be performed (G. R. No. 2457, dated 23rd April 1887).



APPENDIX.

565

(4) *Persons entrusted with partition, Travelling expenses of.*—The travelling allowances of the person entrusted with the partition, according to the scale laid down in the High Court's circulars, as also contingent expenses on account of carriage of instruments required in such partition, necessarily and properly incurred, are to be recovered under clause 3 from the parties to the partition. In the first place, however, the parties interested should be called on to provide whatever assistance in the way of carriage or labourers the person entrusted with the partition may require, and in the event of a necessity to employ hired labour the cost thereof with other contingent expenses should be recovered from the parties concerned as a revenue demand. (G. R. No. 6280, dated 11th September 1882).

(5) *Scale of Bhatta to.*—The scale according to which Bhatta is to be allowed to persons entrusted with the partition is as follows :—

For Clerks and Karkuns of Collectors and other officers employed by the Collectors for each day actually on tour.—

	Rs.		Rs.		Rs.
on more than	275	to	500		3 0-0
Do.	250	to	275		2 12-0
Do.	225	to	250		2 8-0
Do.	200	to	225		2 4-0
Do.	175	to	200		2 0-0
Do.	150	to	175		1 12-0
Do.	125	to	150		1 8-0
Do.	100	to	125		1 4-0
Do.	87-8	to	100		1 0-0
Do.	75	to	87-8		0 14-0
Do.	62-8	to	75		0 12-0
Do.	50	to	62-8		0 10-0
Do.	37-8	to	50		0 8-0
Do.	10	to	37-8		0 6-0

For Peons, &c.,—

on more than Rs. 8-0-0	0 2-0
on Rs. 8 and less	0 1-0

(Vide Bombay Government Gazette, Part I, page 865, 1884).

Disposal of fees paid to Government Servants entrusted with partition. (6) *Classers.*—When classers or other Revenue officers are deputed on a commission under Chapter XXV of the Civil Procedure Code, 1882, the Civil Courts grant them a certain fee for the execution of the said commission. (Vide rule 48 of the High Court civil circular orders published in the Bombay Government Gazette, Part I, page 865, 1884). This fee should be recovered from the classers and the Revenue officers deputed on commission, and credited to Government in return



for the loss of their services during the time they were engaged in executing the commission. (G. R. No. 7858, dated 28th September 1885).

(7) *Measurers*.—The measurers of the Revenue Survey Department employed on the work of partitioning estates and the peons under them are entitled to travelling allowances under the rules of the Civil Travelling Allowance Code (now Civil Service Regulations) for journeys performed by them in the execution of their duty and such allowances should be paid to them.

The partitions made by these officers are effected under the orders of Civil Courts equally with those effected by surveyors employed on Collector's Establishments and the fees prescribed in section 41 of the High Court Circulars as well as contingent expenses for the carriage of records, instruments, &c., should be recovered from the parties interested in the partitions. (G. R. No. 1765, F. D., dated 21st June 1886).

(8) *Other Government servants*.—Government servants accepting commissions issued by Civil Courts are required to pay into the treasury sums which they may receive as fees for their services. They are, when so engaged, regarded as being on duty and are allowed travelling allowance according to the rules in the Civil Service Regulations, the allowance being drawn in the usual way by presentation of bills in the Treasury. (G. R. No. 2053, J. D., dated 17th April 1890).

(9) *Recovery of fees and other expenses in partition cases*.—*Fees*.—The Collector should see that the extra fee prescribed by rule 41 at page 178 of the High Court circulars is levied in all cases in which partition of an estate is made by the Collector under section 265 of the Civil Procedure Code. (G. R. No. 7230, dated 11th December 1886).

(10) The Commissioners of Divisions should be requested to impress upon the Collectors the duty of seeing that the orders conveyed in G. R. No. 7230, dated 11th December 1886 are properly carried out. (G. R. N. 140, dated 7th January 1887).

(11) *Other expenses*.—The Collector should include the salaries and allowances of Surveyors and peons employed in effecting partitions in the expenses necessarily and properly incurred within the meaning of section 113 (3) of the Land Revenue Code. The charge should be for the time the above officers are actually engaged in the village in which the partition is to be effected, and for a reasonable time for going to, and returning from, that village; but a charge for one and the same day must not be made in more than one case. (G. R. No. 5894, J. D., dated 29th October 1888).

(12) Charges, when incurred, in connection with partition of estates should be debited to Land Revenue, and the recoveries, when made, credited to that head by reduction of expenditure. (G. R. No. 3118, F. D., dated 27th April 1889).



(13) Circular No. 83 at pages 46 and 47 of the High Court's circulars having been cancelled the Governor in Council is pleased to direct that in future the Collectors shall be left free to use their powers under the Bombay Land Revenue Code for the levy of the costs of the partition in execution of a Civil Court's decree of estates paying revenue to Government. (G. R. No. 1993, J. D., dated 14th April 1890).

114. Whenever any one, or more co-sharers, in a Khoti estate, into which a revenue survey has been introduced, (or in a talukdari estate)* consent to a partition of the said estate, it shall be lawful for the Collector, or for any other officer duly empowered by him in this behalf, subject to the rules contained in the last preceding section, to divide the said estate into shares according to the respective rights of the co-sharers, and to allot such shares to the co-sharers :

Partition of certain estates by Collector on application by co-sharers.

Provided that no such partition shall be made unless

(a) all the co-sharers are agreed as to the extent of their respective rights in the estate, and

(d) the assessment of the share or shares of the sharer or sharers consenting to such partition exceeds one-half of the assessment of the entire estate.

In such cases the expenses of partition shall be recovered under rule (3) of the last preceding section from all the co-sharers in the estate divided.

115. At the time of a revision of survey, it shall be in the discretion of the officer in charge of the survey, subject to the provisions of section 98, and to any departmental rules or orders in this behalf at the time in force, to sub-divide any survey number into two or more distinct numbers, and to enter the names and liabilities of the persons whom he shall deem entitled to be recognized as registered occupants of such sub-divisions in the settlement register separately.

Sub-division of numbers at time of revision of survey.

The object of this section is to enable the officer in charge of the Survey to make, at the Revision Survey, into separate survey Nos., portions of original survey Nos., which may have passed, by purchase, by a decree of the Civil Court or by partition, into the occupation of persons other than the holder of the original survey Nos. provided that the por-

* The words enclosed in brackets have been repealed by section 3 of Bombay Talukdari Act (VI of 1888).



tions to be so made into separate survey Nos. are not of less extent than the minimum fixed under section 98.

Separate demarcation of land appropriated under section 65 or 67.

116. When any portion of cultivable land is appropriated under the provisions of section 65 or 67 for any non-agricultural purpose, the portion so appropriated may, with the sanction of the Collector, be demarcated, and made into a separate number at any time, notwithstanding the provisions of section 98.

Bombay Act V of 1862 not affected.

117. Nothing in section 113, 115 or 116 shall effect the provisions of Bombay Act V of 1862.*

* Bhagdari and Narvadari Tenures Act.



Standing Orders of the Board of Revenue, Madras.

[REVISED STANDING ORDER NO. 28.

The subdivision of survey fields may be permitted for all purposes on the following conditions:—

(1) that the portion to be divided off be durably demarcated in cases of (a) acquisition of land for public purposes, (b) subdivision of holdings under the provisions of the Loans Act, and (c) assignment on patta of portions of unsurveyed blocks and of portions of unassessed waste or poramboke land. In the case of subdivisions due to sale, transfer or relinquishment, demarcation may be made with stones if the parties require it or if the Divisional officer orders it to be done;

Board's Pro-
ceedings,
dated 5th
December
1893, No. 504
(Settlement),
and 29th
November
1894, No. 524

(2) that the subdivided portion be separately lettered and numbered in the village accounts;

B. P. 7th Sep.
1886, No.
1989.

(3) that it shall be in a single block, not in patches, and be readily accessible from without;

B. P. 4 Jan.
1886 No. 19.

(4) that if the subdivision is for purposes of relinquishment, the portion divided off for relinquishment shall not be less than two acres if dry, and one acre if wet, unless the portion to be relinquished has been destroyed or rendered useless by floods or other causes beyond the ryots' control; and

B. P. 5th
Jan. 1886, No.
19 and 18th
Decem. 1886,
No. 2731.

(5) that if subdivision is for the purpose of obtaining wet remission, the new fields shall in no case be less than one acre in extent, whether the survey field consists of two or more revenue fields clubbed together or not.

B. P. 27th
January 1890,
No. 54.

No subdivision will be valid till confirmed either by the officer conducting the Jamabandi of the taluk in which the village is situated or the Divisional officer. It will be at the discretion of the Divisional and Jamabandi officer to refuse to confirm subdivisions in which the above conditions have not been complied with. After registration, the subdivided portion will be treated in all respects as a separate field. Where

B. P. 5th Jan.
1886, No. 19,
25th Feb.
1886, No. 500,
and 7th Sep.
1886, No.
1989.



a ryot occupies a portion of a field under conditions which render its subdivision impossible under the foregoing rules, it is open to the Collector to impose on the portion occupied the assessment fixed on the entire field.

B. P. 24th
May 1876,
No. 1368.
B. P. 5th Dec.
1893, No. 504
(Settlement),
and 10th
Oct. 1894 No.
424
(Settlement)
B. P. 29th
Nov. 1894,
No. 524.

2. A record of all subdivisions of survey fields must be kept by the karnam in the field measurement book supplied to him for the purpose. In the case of subdivisions made at the time of settlement or subsequently under proper authority and shown by letters or sub-numbers in the settlement register, the subdivision can be plotted and the measurements copied into the field measurement book from the measurement records wherever these are forthcoming. When they are not available, the karnams must measure the subdivisions and enter their measurements in the field measurement book. In the case of new subdivisions requiring the sanction of the Divisional officer, the karnam will prepare an exact copy of the subdivision sketch and measurements from his field measurement book, and after obtaining the countersignature of the Revenue Inspector of the firka thereto in token of its correctness forward it to the taluk where the copy will be finally recorded after the Divisional officer's sanction has been obtained. The copies should be maintained village war in the Taluk office and preserved with great care and a separate register of them should be maintained. All old records relating to subdivisions must be carefully preserved. Changes due to darkhast or relinquishment which are likely to be only transitory need not be plotted, they may be simply measured up for the purpose of assessing the revenue.

Circular
Order, dated
24th January
1856.

3. The subdivision of fields can best be effected by means of sub-numbers or letters for the subdivisions.

Board's Proceedings, 29th November 1894, No. 524.

119. *Subdivision of joint liability in enfranchised Inams—*

The following notification, authorizing to a certain extent, and under certain conditions, the subdivision of the joint liability of shareholders in enfranchised Inams held under joint tenure to the payment of the Government quit-rent should be published from time to time in the District Gazettes:—“(1) It is hereby notified for the information of all those whom it may concern,



that in any case in which all the shareholders in an enfranchised joint tenure Inam may agree among themselves to subdivide the benefits derivable from the grant, and the quit-rent payable to Government, (provided, however, that the share of quit-rent thus apportioned and payable by any individual, shall in no case be required to be recognized by the Collector, unless it amounts to two annas or upwards); and shall produce before the Collector an agreement signed by all of them, and duly stamped and registered, containing a full statement of the details of the subdivision of the land or produce or rent receivable from occupying tenants (as the case may actually be), and declaring the unconditional acceptance by all the shareholders without exception of the above-mentioned agreement; the Collector is prepared to give public notice of the proposal, and should no objection be raised and established, to accept it, so far that each recognized and recorded individual share of the Inam shall be held first liable to sale for the recovery of the Government dues on account of it should the sale of the defaulter's other property have proved insufficient; but that in the event of the Government demand being still unsatisfied, the Collector shall be at liberty to recover the balance outstanding from the rest of the shareholders by the sale of their shares in the Inam concerned, or other property belonging to them, or both. (2) Should objections be raised by competent parties to any proposals that may be made, the Collector will inquire into and dispose of them on their merits."

2. The receipt of proposals made in due form must be notified by proclamation and placard in the village itself and by placard in the Taluq and Huzur cutcherries. The placard and proclamation must declare that the proposal is unanimous; they must also state that the proposal will be disposed of on such and such a date, unless objected to before the Collector within three months.

3. When the Collector has decided to accept the proposal, an order will be issued by him to the taluk authorities detailing and accepting the agreed subdivision of the Inam, in the terms of the notification as above.

4. As each proposal is accepted, notice to that effect must be made in the District Gazette.



5. Collectors will notice in their Annual Settlements Reports the extent to which advantage is taken of the permission here accorded.

G.O., dated 18th October, 1867, No. 2451. R. D. : 3rd April, 1868 ; G.O., 6th December, 1870, No. 1950, Revenue. Board's Proceedings, No. 647, dated 10-2-71. Board's Proceedings No. 98, dated 2-3-93 (Land Revenue).

120. Assessment on subdivisions of enfranchised Inams.—The apportionment of Jodi or quit-rent on the subdivisions of enfranchised Inams should be made at rates proportionate to the values of such subdivisions in comparison with the value of the whole Inam. In cases where the subdivisions are small, redemption of the quit-rent should be encouraged.

2. No separate deed need be given for each subdivision of an Inam sold or purchased. The deeds executed by the seller must constitute the purchaser's title, as in the case of any other property. When persons appear before the Revenue authorities for apportionment of the quit-rent, the portion sold will be deducted from the original title-deed given by the Inam Commissioner for the entire Inam, by an endorsement on the back of it under the signature of the Collector, or one of his Assistants or Deputies. The purchaser may take an extract from the Collector's Register in which the transfer is recorded, as in the case of ordinary ryotwari land.

3. The Act for the Registration of Assurances will afford additional means of securing title.

G.O., 1st October, 1864, No. 1820, R. D. : 28th October, 1864.



GLOSSARY OF SOME INDIAN TERMS IN CONNECTION WITH THE SUBJECT OF THESE LECTURES.

- Abibhacta*—Joint.
Angsanamah—Deed of partition.
Batwarah—Partition.
Bivacta or *Bibhacta*—Divided or separated.
Bivāg—Division.
Butwarah (see *Batwarah*).
Ejmali (See *Ijmali*).
Ekkhrajat—Expenses.
Hasthood—Gross rental.
Huq Shuffa—Right of pre-emption.
Ijmali—Joint.
Jama—Rent.
Jamabandee—Rent-roll.
Jama Guzastha—Past rent.
Karta—Manager.
Khāndān—Family.
Khetbut—Field by field. Applied in reference to maps.
Khewat—In the North-Western Provinces, the record or register of shares in which a co-parcenary village is distributed.
Kulachar—Family usage.
Paimaesh—Measurement.
Paribar—Family.
Patti—Plot allotted at partition.
Raibundee—Scale of rents for different kinds of land.



Rugba—Area.

Saham—Partitioned share.

Salees—Arbitrator.

Saranjami—Collection charges.

Shuffa—Pre-emption, Pre-emptor.

Shureeck—Co-sharer.

Tukhta—Plot allotted at partition.

Tulub-ish-had—See p. 208.

Tulub Moowuthubut.—See p. 208.

Tulub-takreer—See p. 208.



INDEX.

	PAGE
ACCOUNT—	
Liability of managing member of joint family to—under	
Mitakshara	82-85
" under Dayabhaga	182
Mode of taking such—under Mitakshara	84-85
" under Dayabhaga	182
ACQUIESCENCE—	
See : Co-sharer.	
ACQUIRED PROPERTY—	
Father's power over—under Mitakshara and Dayabhaga	
absolute	105-107, 176
ACQUISITIONS—	
by individual members of joint family without use of joint	
or ancestral property are not coparcenary property ...	56, 185
—thrown into common stock become joint property ...	107
Use of ancestral property what, in relation to... ..	58
ACTS enjoining administration of Hindu and Mahomedan law	10-11
of Indian Legislature determine several incidents	
of joint property	14
IV of 1893: power of sale	20, 376, 380-381, 429-431
for the partition of estates in Bengal	21, 432-499
" in the North-Western Provinces	21, 510-530
" in Oudh	21, 53
" in Assam	22
" in the Central Provinces	22
" in the Punjab	21
" in the Bombay Presidency	22
" in the Madras Presidency	22
ADOPTION—	
Affiliation into family by—	40
ADOPTED SONS—	
acquire interest in ancestral property of their adoptive	
father under Mitakshara from date of adoption ...	46, 335
share in competition with natural sons under Mitakshara	335-338
" under Dayabhaga	357
See : Dattaka sons.	



	PAGE
ADULT MEMBERS—	
of a joint family under Mitakshara bound by managing members' acts	122-124
" " under Dayabhaga	183
AFTER-BORN SONS—	
under Mitakshara not entitled to question fathers's alienations	165
Ratification by—	165-166
AGREEMENT—	
not to partition	360
to refer to arbitration	367
ALIENATION—	
Growth of the power of—	121
of joint property by the whole body of coparceners under Mitakshara	121
" when some of them are minors	121
of joint family property under Mitakshara by managing member	86, 87, 109
of immovable property under Mitakshara when some coparceners are minors	101
of joint family property under Mitakshara for payment of debts due by father or grandfather	126-133
What should purchaser prove when his purchase is questioned of entire family interest by a coparcener when it fails by reason of absence of legal necessity, what is the result	143-144, 164-165
In such circumstances, consideration made charge on interest of vending coparcener	144, 145, 164 & 166-169
ALIENATION of a coparcener's interest under Mitakshara ...	110-111
" the law as accepted in Bengal	111-115
" " in the N.-W. Provinces	115-116
" " in Bombay and Madras Presidencies	116-117
by gift or devise invalid	118
under Dayabhaga	183-84, 186
See Legal necessity ; Debts ; Sale ; Partition ; Equities.	
ALIENEE—	
Rights of—of coparcener's interest under Mitakshara	120
Point of time which determines share of—	120-121
ALLOTMENTS—	
(Drawing lots) in partition suits	395-396
ANCESTRAL—	
Movables and immovables, no distinction between, as regards powers of alienation under Mitakshara	100-105



INDEX.

577

PAGE

ANCESTRAL—Continued.

Movables converted into immovables partake of the character of immovables ... 55

ANCESTRAL PROPERTY—

What, under Mitakshara ... 53

Share of—received at partition is—as regards issue ... 54

but separate property as regards separated members ... 54

When property received as gift or under will is— ... 54

Property purchased from profits of—is— ... 55

Even what was purchased before birth of son ... 55

when recovered without spending joint money is not ancestral or coparcenary property ... 59-61

But it becomes—when it is recovered on spending joint ancestral property ... 61

ANCESTRAL TRADE—What ... 94

Minors like adult co-sharers bound by manager's transactions in reference to— ... 95

Limit of minor's liability in— ... 96

Incidents of partnership in—not determined solely by Contract Act ... 97

Death of a partner causes no dissolution of partnership in— ... 97

Outgoing partner in—entitled to share only in existing assets ... 97

The law with reference to—the same under Mitakshara and Dayabhaga ... 96

Succession certificate not necessary in reference to— ... 97

ANTECEDENT DEBT—What ... 142-43**APPEAL—**

from order to sell in partition suit ... 381

from preliminary decree in partition suit (See *Dulhin Golab Koer v. Radha Dulari Koer* (1892) I. L. R., (19 Cal. 463))

ARBITRATION—in partition suits ... 366

Agreement to refer to— ... 367

AWARD—of commissioners named by parties in partition suits less liable to be disturbed ... 392**BHAIACHARI SYSTEM— ... 38****BROTHERS—**

of whole and half-blood under Mitakshara ... 343-44

under Dayabhaga ... 357-58

BUILDINGS :—See co-sharers.



	PAGE
BURDEN OF PROOF—	
on sons under Mitakshara to prove character of father's debts	138-140
in cases where partial separation as to members is admitted	312
on member of joint family to show that property in his possession is not family property	89-92
to show jointness	89-92
See: Onus of Proof.	
CERTIFICATE—	
of guardianship in Dayabhaga family	189-190
In respect of an undivided minor's interest in Mitakshara family	97-98
CHARGE FOR MAINTENANCE:— See maintenance.	
CIVIL COURTS, — ousted of their jurisdiction in suits for partition of revenue-paying estates 410, 414, 423, 427, 429, 530.	
COLLATERAL INHERITANCE—	
not partible with sons under Mitakshara	53, 55-56, 320-21
Son's right does not attach to father's—under Mitakshara 53, 320-21	
from maternal grandfather doubted if not ancestral property under Mitakshara	56, 58, 321
COLLECTOR—	
partition by—	399
to complete partition proceedings by delivery of possession	399
See: Partition of Revenue-paying estates in Bengal	
COMMISSION—	
for partition	385
Expense of—	386
COMMISSIONER— named by parties	370, 371
Who may be—	391-92
COMMISSIONERS—	
Powers of—	385, 386
Duties of—	
Ascertainment of property	392
Inspection thereof	392
Preparation of plans	393
Detailed valuation... ..	393
Employment of Surveyors	393
Report by—	386
Form of report of—	387, 404, 406
have no lien for charges	398



INDEX.

579

PAGE

COMMUNAL—Zemindari System	...	...	...	37
COMPENSATION—payable at partition to the sharer				
who made improvements on joint property	224, 225, 388-391			
See : Owelty				
CONTRIBUTION—				
among co-sharers	...	...	...	219
Equitable doctrine of—	...	...	...	220
Among wrong-doers none	...	...	...	223
Among persons jointly liable for breach of contract	...	...	...	224
CONTRIBUTION SUITS—				
Jurisdiction of Small Cause Court under Act IX of 1887	...	...	...	221
" under Act IV of 1882	...	...	...	221, 222
Plaint in—	...	...	...	223
Jurisdiction of Small Cause Court in—	...	...	...	221
" under Act XI of 1865...	...	...	...	221
" after the passing of Contract Act	...	...	...	221
Parties to—	...	...	...	223, 268, 269
Decrees in—	...	...	...	223, 268, 269
COPARCENARY PROPERTY—What	...	...	...	50, 52, 53
Distinguishing features of—under Mitakshara	...	...	...	51, 52
Share in—not defined before partition under Mitakshara	...	...	...	52
Capable of division at instance of sons and sometimes of				
grandsons	...	...	...	52
Any alienation of—by any Mitakshara co-parcener may be				
questioned by other co-parceners...	...	...	...	52
Property inherited collaterally is not—under Mitakshara...	...	...	...	53
Separate acquisitions without use of ancestral property				
are not—	...	...	...	56, 58
Marriage presents obtained without spending patrimony				
are not—	...	...	...	58, 59, 186
Ancestral property recovered without spending patrimony				
are not—	...	...	...	59-61, 186
Gains of science learnt without spending patrimony are				
not—	...	...	...	61-63, 185
Grants from Sovereign obtained without spending patri-				
mony are not—	...	...	...	64
Savings made by proprietors for time being of impari-				
ble estates are not—	...	...	...	64
Gifts of affection under Dayabhaga are not joint property	...	...	...	186
under Mitakshara compared to joint tenancy	...	...	...	173
under Dayabhaga compared to tenancy-in-common	...	...	...	174
CO-PARCENERS—				
Who are—	...	...	...	41, 46



	PAGE
CO-PARCENERS—Continued.	
Shares of—in Bengal definite	41
Not so under Mitakshara before partition	41
must be persons free from disqualifications	48
CO-SHARERS—	
Minor co-sharer can seek partition on proof of malversa- tion	185
Why—generally allow joint property to run to waste	218
Obtain no lien by payment of revenue in Bengal	222
But does by payment of rent in Bengal	222, 223
Are liable for repairs to joint property made by one of them	225
But not for improvements made upon joint property	225
Injunctions against use by—	226-230
None except on proof of waste	227
Buildings on joint land by—	231, 232
No injunction where a sharer does not deny his co-sharer's right and where loss may be re-imbursed by money pay- ment	228-230
may use joint property to yield more profit to themselves provided they do no injury to other—	230, 231
Effect of acquiescence by—as to building over joint land may be liable for rent where demolition would entail hardship	231
— growing valuable crop on joint waste land	232
All—must sue trespasser for possession of joint land	233
Suit by some—dispossessed by others of them	233
<i>In Bengal.</i>	
One of several joint landlords may sue for apportionment of rent... ..	235
When can he sue for entire rent	236
When for his share of rent separately	237
Cannot sell tenure on decree for partial rent	237
One—may sue for Kubulyat	238
How one—may eject a tenant from joint land... ..	239
Opening of separate accounts under Act XI of 1859	241-243
<i>In the N.W. Provinces.</i>	
When some—refuse settlement, shares of recusant pro- prietors are farmed	243
Record of rights determines the revenue payable and rent collectable by each	244
— possess right of pre-emption in sales for arrears of revenue	244
One of several joint landlords cannot enhance rents	244



INDEX.

581

PAGE

CO-SHARERS—Continued.

One of several joint tenants cannot surrender	...	244
Nor can he be ejected	...	245
A co-sharer landlord cannot sue for portion of rent	...	245
Except where other co-sharers have realized the remainder	...	245

In Oudh.

Joint settlements among—	...	245
A co-sharer or member of community may obtain possession by payment of a defaulting co-sharer's quota of revenue...	...	245
A co-sharer tenant not competent to relinquish his portion	...	246
Suits for enhancement of rent or ejectment of tenants &c., in respect of lands owned by several landlords must be brought by common manager	...	246

In Bombay.

Suit by one of several proprietors for enhancement of the rent payable by a tenant or for ejectment of a tenant may be brought by one co-sharer as agent of others	...	246
--	-----	-----

In Punjab.

Partition of tenancy without consent of landlord does not affect liability for rent	...	247
---	-----	-----

In Central Provinces.

Where some co-sharers refuse, how settlement to be made	...	247
Allowance of sharers excluded from settlement	...	247
Statutory pre-emption among sharers	...	248
Tenant not ordinarily bound to pay rent to one of several landlords	...	248
Common manager is to collect rents	...	248
Rights of a mortgagee from one of several — before partition	...	298
Rights of a putneedar from co-sharer	...	398
See : Improvement.		

COSTS—

in partition suits	...	273-74, 397
Payment of—how enforced	...	397

CUSTOM—

Evidence to establish—	...	277
„ to establish destruction of	...	284
Rules of succession to impartible estates determined by—	...	276
Rules of primogeniture in impartible estates in absence of—	...	282
Inalienability of impartible estates depend on—	...	281

DATTAKA SON'S RIGHT—

to demand partition under Mitakshara	...	335
to prevent alienation by the adoptive father under Mitakshara	...	335
See : Adopted sons.		



	PAGE
DAUGHTER'S—Estate in Bombay	188
DAUGHTERS—	
of disqualified heirs under Dayabhaga to be maintained	
until marriage	357
of disqualified heirs under Mitakshara	332-333
Partition among—	341-342, 359
Survivorship among—	341-342, 359
Joint property in possession of several—	7
DEBTS—	
Pious duty of sons and grandsons to pay their father's	
and grandfather's—save such as are of immoral	
nature	126-133
Payment of—due from father or grandfather a legal neces-	
sity	126
Sons bound to pay father's—during latter's life-time	129, 132-133
" " whether family is benefited or	
not	130
Whole ancestral property is liable for father's debts during	
his lifetime	131
If illegal or immoral, his share only liable during his life-	
time	162-163
After his death, creditor would have no remedy	162
Except where decree was upon mortgage by father	163
Or where property was attached in execution of decree	
during father's lifetime	163
But not if attachment was before judgment	164
If — be not immoral or illegal, father's death would not	
defeat creditor's right to proceed against sons	164
Onus to prove character of—	138-140
DECREE—	
In pre-emption suits	215
In partition suit, preliminary—	370, 384, 402-403
" final—	399, 407-409
Effect of—in partition suit	271-72
— in contribution suit	223
Form of—where purchaser under Mitakshara is entitled	
to coparcener's undivided interest	144
DISABILITIES—	
Court to watch interest of persons under—in partition	
suits	383-4
DISQUALIFICATIONS—under Mitakshara	48, 322-30
— under Dayabhaga	356
EASEMENTS—of light and air in partition	396



INDEX.	583
	PAGE
EFFECTS NOT LIABLE TO PARTITION— ...	185-186
gains of science ...	61, 185
gifts of affection ...	186
grants from Sovereign ...	63
separate acquisitions ...	56
marriage presents ...	58, 186
discovered after partition ...	338
EJECTMENT—	
of tenant from land jointly owned by several landlords, in Bengal ...	239
Partial—how executed ...	239
ENHANCEMENT— of rent, in Bengal, must be sued for	
by all joint landlords ...	234
by execution of document ...	239
Even where the co-sharers collect separately ...	234
But a co-sharer is competent to seek—if separate Kubulyat has been given to him ...	234
Law in the N.-W. Provinces as to— ...	244
Circumstances in which a share of rent was held recover- able in N.-W. Provinces ...	245
Law in Oudh as to— ...	246
„ in Bombay as to— ...	246
EQUITIES— in partition suits ...	387-389
which arise on the setting aside of sales under Mitakshara ...	166-169
ESTATE—	
See : Partition of revenue-paying estates ...	411
EVIDENCE— to establish custom of impartibility ...	277
to establish destruction of such custom ...	284
to establish partition ...	294-310
of necessity under Dayabhaga ...	347
under Mitakshara ...	293
Recitals in deeds are not—of necessity ...	143
EXPENSES— of Commission for partition ...	384
FACTUM VALET , doctrine of ...	178
FAMILIES—	
Constitution of—among Hindus ...	35
under the leadership of father according to the Mitakshara ...	81
other—under Mitakshara ...	81
under Dayabhaga ...	178
FAMILY DWELLING-HOUSE ...	78
partible ...	394



	PAGE
FAMILY IDOL AT PARTITION	393-394
FATHER —a coparcener with son under Mitakshara ...	43-45
his powers in Ancient Rome	32
" curtailed subsequently	34
Powers of—over son's acquisitions in Ancient Rome ...	33
in a joint family under Mitakshara ...	80
entitled to share at partition with sons under Mitakshara ...	330
may separate his sons at pleasure ...	317, 318, 350
Alienations of family property by — bind all coparceners under Mitakshara unless for immoral debt ...	159
Debt of — pious duty of sons to pay excepting such as are of immoral nature, under Mitakshara ...	126-130
FORMS —	
of plaints in partition suits	401-402
of preliminary decree in partition suits ...	403
of reports of Commissioners making partition ...	404, 405
of final decree in partition suit	407-409
GAINS OF SCIENCE not coparcenary property ...	61-63, 185
GIFTS OF AFFECTION not liable to partition ...	186
GRANDFATHER'S debts to be paid by grandsons under Mitakshara	126
GRANDMOTHER'S share at partition under Mitakshara ...	333
GRANDSONS —	
acquire by birth interest in ancestral property of their grandfather under Mitakshara	45
cannot demand partition under Mitakshara during lifetime of their grandfather	45, 50
whose fathers are dead represent their fathers at a partition under Mitakshara	45, 330
under Dayabhaga	177, 350-351
must pay their grandfather's debts	126-133
GRANTS from Sovereign looked upon as self-acquisitions ...	63
GREAT-GRANDSONS of last owner are coparceners of their Fathers and Grandfathers in heritage ...	44
HINDU FAMILY —constitution of	35
HINDU JURISPRUDENCE COMPARED TO ROMAN ...	23
HINDU LAW —	
applicable to Hindus in reference to some disputes only ...	10, 11
Different schools of—	12
grouped under two heads	12



INDEX.

585

PAGE

HINDU LAW—Continued.

Particular localities for them	...	...	172
Domicile ordinarily determines the particular Schools applicable	...	...	171, 172
Authorities in different Schools	...	...	13
Same texts of — differently explained in Mitakshara and Dayabhaga	...	...	176-178
Doctrine of factum valet in—	...	...	178

IDOL AT PARTITION ... 393-394**IMPARTIBLE JOINT ESTATES—What** ... 16, 276

Joint Estates to be presumed partible	...	...	276
What is necessary to be proved to establish their impartible character	...	...	277
Incidents of impartible estates under Mitakshara	...	...	278-282
Early decision as to right of sons by birth in — and right to alienate	...	...	278-279
No property in sons by birth	...	...	281
Son cannot control father's alienation	...	...	281
Alienability to be presumed	...	...	231
„ depends on custom	...	...	281
Rules of succession determined by custom	...	...	276
Rule of primogeniture generally applicable in the absence of custom	...	...	16, 282
Incidents of such property under Dayabhaga	...	...	283
Power over income	...	...	283
Savings and property purchased therewith are divisible	...	...	283
Hunsapur Raj	...	...	285
Sivaganga Estate	...	...	285
Nuzvid Estate	...	...	286
Morangi Estate	...	...	287
Saranjams of Bombay	...	...	291
Madras Regulation XXV of 1802	...	...	286
Bengal Regulation XI of 1793	...	...	287
Bengal Regulation X of 1800	...	...	288
Effect of Regulations	...	...	289
Principalities or Raj	...	...	290
Maintenance allowances in—	...	...	291

IMPORTANCE of the subject of joint property and partition ... 22**IMPOTENT PERSONS—who are** ... 322**IMPROVEMENTS—**

made by one of several co-sharers how dealt with at partition	...	...	388-391
how when extending over the whole estate	...	...	389
Compensation payable at partition to the party making—	...	...	390

**IMPROVEMENTS—Continued.**

When one co-sharer is entitled to the benefit of his own —	
at partition	390-391
See : Co-sharers.	
See : Pre-emption.	

INJUNCTIONS—

none except on proof of waste	227
and where damages would not be adequate remedy	228-229

JOINT FAMILY—

Origin of	4
Conception of, — under Mitakshara	14
Family under Dayabhaga with father as <i>karta</i> is no,—	173
compared with corporations	79
contrasted with partnership concern	79
compared with partnership	109

JOINT LANDLORDS— under Bengal Tenancy Act	233-240
under the law of the N.-W. Provinces	243-245

JOINT PROPERTY— What	3-4
different from joint tenancy	4-7
Early law of—	29-30
Principal classes of—in India	8
Prevalence of—in India	22-24
Different laws for different kinds of—	8
Legislative enactments determine various incidents of—	14
Doctrines of equity determine various incidents of—	15
General law of property ordinarily applicable to—	16
Special law of—	17
under Dayabhaga contrasted with that under Mitakshara	172-173
under Dayabhaga compared with tenancy in common	173-176
under Mitakshara compared with joint tenancy	173-174
Law of—under Mitakshara is peculiar	9
Mode of enjoyment of—	170
" " in families under leadership of father	
under Mitakshara	171
" " in other families under Mitakshara	173
" " in families governed by Dayabhaga	172-173
" " under Mahomedan law	192
Disputes as to mode of enjoyment of—determined by partition	218
may be used by some owners to produce profit to themselves without incurring loss to others	230
exclusive cultivation by one sharer of waste lands before partition when such sharer admits the title of his co-sharers should not be deprecated	228-229
See : Alienation, Sale.	



INDEX.

587

PAGE

JOINT TENANCY—

under English law	...	...	...	...	5-6
compared with the estate of co-widows or co-daughters					
under Hindu law	...	...	...	...	6-7

JOINT UNDIVIDED ESTATE :

See : Partition	411
-----------------	-----	-----	-----	-----	-----

JURISDICTION—of Courts in suits for maintenance

in Suits for Contribution (See Contribution Suits).					269
in Suits for Partition	...	...	...	...	270, 364

JUS ACCRESCENDI ... 6**JURISPRUDENCE—**Hindu and Roman compared ... 36**KARTA**, liable to account ... 82

cannot revive a barred debt except against himself ... 86

bound to account for mesne profits to a minor co-sharer whom he wrongfully kept out of possession ... 192

Position of — in a Mitakshara family ... 81

can give a new start to limitation by acknowledgment ... 86

KHULLEET: See Pre-emption.**KNOWLEDGE** of purchaser that debts were for immoral purposes must be proved by sons ... 357**LAW OF JOINT PROPERTY :** its importance ... 22" **OF PARTITION :** its importance ... 24**LEGAL NECESSITY—**What ... 122

Instances of, ... 124-126

Payment of debts due from father or grandfather is—under Mitakshara ... 126

How much to be alienated for a— ... 133

Enquiry into existence of—by lender or purchaser ... 135-137

Lender or purchaser not bound to look to the application of money to the alleged— ... 135

Purchase from female co-sharer must be for— ... 189

Recitals in deeds no evidence of— ... 143

Existence of—not being established, seller's own share, if coparcener, passes ... 159

LIEN FOR MAINTENANCE : See Maintenance.**LIMITATIONS—**

law of, applicable to separate property generally applicable to joint property ... 252

specially applicable to joint property ... 253

in Suits to enforce pre-emption ... 254-257

in Suits by co-sharers to restrain waste ... 257

in Suits for contribution ... 257-258



	PAGE
LIMITATIONS—Continued.	
in Suits under Mitakshara to set aside father's alienations	258
in Suits under Mitakshara to set aside alienations by any other member	258-259
in Suits between co-sharers for possession	259
The law same for movables and immovables	263
Whether the same law is applicable to Mahomedan co-sharers	260
Old law on the subject	260
LOTTERY : See Partition	395-396
MAHOMEDAN LAW—	
applicable to Mahomedans in certain matters only	10 & 11
Joint property under—	192
Shares of coparceners under — definite	192
Males and females inherit together under —	192
Female co-heirs have same rights as male co-heirs under —	192
Shares of male and female heirs how generally determined under — in cases of inheritance	361
MAINTENANCE—	
How much of the general subject of — has been treated in this book	65
Texts as to who can claim, —	66-69
Possession of ancestral property, a condition for the allowance of — in certain cases	71-72
of family a legal necessity	310
of wife, infant sons and aged parents even in absence of property	68-75 & 179
of daughters under Mitakshara	69
under Dayabhaga	180
of widowed sister-in-law	70, 72 & 73
of disqualified coparceners under Mitakshara	70
under Dayabhaga	181
of younger members in impartible estates	276, 278, 290
of mother under Dayabhaga	181
Moral obligation of one for — becomes legal obligation of heir	73
Adult sons irrespective of property have no claim for —	74
Unchastity forfeits—	74
Charge for — is not created except by decree or contract	75-78 & 182
may be enforced against the person primarily liable	74, 75
against donees	76
against devisees	77
not against purchaser for value	77-78
nor against any transferee while the family owns property sufficient to defray maintenance	162



INDEX.

589

PAGE

MAINTENANCE—*Continued.*

Share in lieu of — cannot be demanded by mother if the joint estate has not ceased to exist	78
of mother is charge on her son's (not step son's) share	354

MANAGER—

Powers of	108, 109, 123 & 134-135
<i>Defacto</i> — to be deemed <i>dejure</i>	136
See: <i>Karta</i> .	

MARRIAGE —of daughter or sister, a legal necessity	125
Presents received in — are not coparcenary property	58, 59

MINOR COPARCENERS—

certificate of guardianship cannot be granted in respect of undivided interest of Mitakshara minor	98
can demand partition when	184-185
are bound by result of suit against managing member	85
Lease granted on behalf of—without permission of Court along with adult co-sharers void	240
wrongly ejected by manager may sue to recover with mesne profits	86

MOOLASIC: See Pre-emption.*MOOWUTHUBUT*: See Pre-emption.

MORTGAGEE —right of a—after partition in respect of mortgage made before partition	398
--	-----

MOVABLES —acquired, alienable by father or acquirer	107
ancestral, inalienable by father	102

MUTUAL CONVEYANCE : See Partition	399
---	-----

NUPTIAL PRESENTS are not coparcenary property	58-59, 186
---	------------

OBSEQUIES of father and mother a legal necessity	125
--	-----

OBSTRUCTED HERITAGE —What	43, 49
Son cannot control father's acts in reference to—	54

ONUS OF PROOF , as to whether a property is joint or self-acquired	89
as to character of father's debts	138-140
as to purchaser's knowledge of the character of such debts	140-142
as to separation of other members in cases of partial separation	312
See Pre-emption: Presumptions: Re-union; Burden of Proof.	

OUTCAST—

Who are	322
have no claim to maintenance	354



	PAGE
OWELTY —What	387
Directions as to — must be given by Court in Partition Suits	387
See: Partition.	
PARTIES —	
to suits for Joint property	264-268
to suits for pre-emption : See Pre-emption	209, 269
to suits for Partition	371, 372
PARTITION —	
under Mitakshara and Dayabhaga contrasted	347
unknown in earlier days	292
according to father's will followed	292-293
by metes and bounds, rules of, generally applicable alike to all people	16
by separate collection of rents	20
Sale in lieu of —	16
<i>Under Mitakshara.</i>	
What is —	14, 18, 173, 293
What property does Mitakshara contemplate in treating of —	315
Who can demand — of unobstructed heritage... ..	316
Not all who are entitled to share at —	43, 47
Nor all who take vested interest	45, 55
is origin of property	42, 293
Four periods of —	317-318
The periods refer to — of father's self-acquired property	318-320
Sons can demand — of ancestral property at any moment	320
even when father is joint with uncle	321, 333
but cannot demand — of property inherited collaterally by father	320-321
adopted sons can demand —	335
grandsons during life of father and grandfather cannot demand—	45
Minors can demand—	340-41
Who are disqualified coparceners at — of unobstructed heritage during father's lifetime	48, 322
Shares of disqualified coparceners when free from defects... ..	323
„ when disqualification is removed after—	323
Rights of their adopted sons at—	323
„ a son of disqualified sharer born after,—	322
Shares of sons at—	330
of grandsons	330
of adopted sons	330
of adopted sons of sons	330



INDEX.

591

PAGE

PARTITION—*Continued.*

of wives	331
of grandmother	333
of after-born son	333
of sons of different tribes	333-334
of a natural and an adopted son in competition	335-338
of an adopted son in competition with the adopted son of a natural son	338
Unmarried daughters have to be provided for in marriage	332-333
of unobstructed heritage after father's demise	338
Shares same as in a — by father	339
Exceptions	339
Share allotted to mother at — is in lieu of maintenance	339
Mother entitled to share when — takes place among her sons	331
Her portion when she has <i>Stridhana</i>	331-332
Effects discovered after—	338
When — can be re-opened	339
re-opened at instance of absent members	339
„ at instance of after-born son	339
„ upon removal of disqualification	323, 340
Consequences of —	341, 347-348
Incomplete —	344
Effects not liable to —	55-64
Why sons do not more frequently seek — during father's lifetime	342
Evidence of—	294
What amount to—	18, 295-308
Signification of intention to separate	19, 308, 309
Effects of agreements causing —	309
Decrees for, executed or unexecuted effect —	309
except when long jointness implies abandonment of original wish	309
When declaratory decrees effect—	309
Evidence of separate enjoyment is conclusive on questions of—	310
Partial — as to property	313, 374-75
Its effect on other properties	314, 315
Important consequences attached to—	19, 294
<i>Under Dayabhaga.</i>	
What is—	15, 19, 173, 346
Sons cannot seek—against father's will	348
Any co-sharer can seek—	349
Two periods of—	349



	PAGE
PARTITION—Continued.	
Father may retain double share	349
Unequal—by father allowable	350
Shares of sons, grandsons and great-grandsons at a—after father's demise	350-352
'Sons' includes adopted sons and sons of different tribes ...	350
But they must not be disqualified	351
among other heirs	351
Mother's share at a—among sons	352
Step-mother cannot claim share from her step-son ...	353
When father makes—each childless wife is entitled to share	353
Mother's share when she has separate property ...	354
Mode of determining mother's share	354
Paternal grandmother's share	355
Unmarried daughters at—not entitled to share though pro- vision should be made for their marriage	355-356
Natural and adopted sons in competition at—... ..	357
Brahmin's acquisitions by acceptance of pious gifts not divisible except among sons by Brahmin wives	357
among widows	359
among daughters	359
Interest which a woman takes in the share allotted at— ...	359
reopened at instance of absent members	357
„ of after-born son	357
<i>Under Mahomedan Law.—</i>	
Shares of coparceners definite before—	19, 194, 360
Shares of male and female heirs generally	361
Female heirs have same rights in their shares as male heirs in theirs	192, 362
<i>Generally.</i>	
Agreements against—	360
Procedure for—by metes and bounds same for all classes of people	20
may take place between owners of interests not co-ordinate (Full Bench decision of Cal. High Court dated 12 March 1897 in Hemadri Nath Khan v. Raja Ramani Kant Roy I. L. R., 24 Cal. p. 575.	
Procedure for partition oftentimes dilatory and ruinous ...	219
Sale in lien of—	376-381
Sale to be subject to reserved bidding	381
made by the joint owners themselves	366
made by reference to arbitration... ..	366
made by application to court for reference to arbitration ...	369
made by Civil Court through Commissioners named by parties	370



INDEX.

593

PAGE

PARTITION—Continued.

In a contested suit for—who to be defendants ...	372
" who to be plaintiff ...	371
When can minors demand— ...	184, 185
Forms of plaint in suits for— ...	375, 376
Objections of defendants in suits for— ...	378-79
Issues in " " ...	379
Preliminary decree in " " ...	370
Form of it ...	384
Court and not Commissioners to determine shares ...	385
Mode in which—is to be effected ...	385, 393-395
Reference to Commissioners for— ...	385
Expenses of Commission ...	386
Court to provide for owelty ...	387
Report by Commissioners ...	386
Proceedings of Commissioners to be public ...	392
Commissioner's duties: See Commissioners ...	392-393
may be made subject to widow's right of residence ...	394
Lottery in— ...	396
Easements of light and air in— ...	396
Costs in— ...	397, 399
Proceedings to be completed by delivery of possession ...	399
Mutual conveyances ...	399
Final decree in— ...	386-87
Form of it ...	407-409
Failure of title after— ...	399
Sale in preference to— ...	365
Provisions of English and Indian Partition Acts compared ...	377-78
In—interest of all parties to be kept in view by Commissioners ...	395
of family dwelling house ...	394
Equities in suits for— ...	390
Improvements made by one of several co-sharers at a— ...	388
When a party in a—is entitled to the benefit of his own improvements. ...	390
In—proximity of separate property of a party is a consideration ...	395
<i>of Revenue-paying estates in Bengal.</i>	
What is an estate ...	411
What a joint undivided estate ...	411
Extent of separate liabilities upon opening separate accounts ...	242, 411
Advantages of — to proprietors ...	412
" to Government ...	412
Revenue-officers in — cases ...	413-414
Civil Courts ousted of their jurisdiction in — cases ...	414
Summary of — Act ...	414-421



	PAGE
PARTITION—Continued.	
Fundamental principle of apportionment of revenue ...	415
Who can demand — ...	415
Application for — ...	416
Establishment for — and costs thereof ...	417
Adoption of rent-roll and measurement ...	417
by arbitrators ...	418
General arrangement of — ...	418
Mode of division ...	418-421
Compactness in — ...	419, 423
Confirmation of — by Commissioner ...	419
Analogy between partition by revenue-officers and by Civil Court ...	420-421
Pending at the commencement of this Act to be completed under old law sec. 2 ...	432
Applicant for — must be in actual possession of his interest sec. 8 ...	437
Civil Court may order — which may not be binding on Government unless by consent sec. 8 ...	438
Collector not bound to make — in certain cases sec. 8 ...	437-438
No — feasible of a share in a mouza held jointly with estates other than the estate to which it appertains sec. 9 ...	438-439
Limit of — (sec. 11) ...	441
when revenue apportioned to a share would not exceed one Rupee ...	441
when private division of lands have been made unless all the recorded proprietors apply and Collector is satisfied that Government interests are not likely to suffer (sec. 12) ...	442
Previous private arrangement between proprietors does not affect — subsequently applied for (sec. 12) ...	442-445
Private — binding on the purchaser of a portion of one of the separated estates (sec. 12) ...	442
A division of only one village out of several would not operate as a bar to — (sec. 12) ...	442
Private — must be of the most complete and formal description (sec. 12) ...	442
Owing to change of circumstance since the time of original private arrangement (sec. 12) ...	442-443
Private — does not hold good when a portion of lands are held in <i>ijmali</i> tenure (sec. 12) ...	442
When Collector may refuse to make — of parent estate consisting of scattered parcels of land, into separate estates (sec. 13) ...	445-446



INDEX.

595

PAGE

PARTITION—Continued.

When interest alienated with special condition as to revenue liability (sec. 14)	446
Cessation of proceedings from date of sale of parent estate for arrears of revenue sec. 15	446-447
Application for — to whom to be made sec. 17	447
to give particulars (sec. 18)	448
to be accompanied with rent-roll &c. (sec. 19)	448
Power to reject — (sec. 20)	448
Procedure on receipt of — (sec. 21)	449
Rejection of — on valid objection (sec. 23)	449
Resumption of proceedings on — (sec. 25)	450
Admission of — (sec. 31)	453
Subsequent applications after admission of — (sec. 32)	453
Cases may be struck off on petition from all recorded proprietors (sec. 35) after issue of notice (sec. 36)	455
Holding of different mouzas in an estate by distinct proprietors offers no legal disability in the way of completion of — (sec. 36)	455
Objections to —, hearing of (sec. 58)	463
Notification of date for deciding the mode of — (sec. 63)	465
Private — parties may be allowed to make (sec. 64)	465
to be subject to approval (sec. 68)	466
Assessment of land-revenue when — made (sec. 69)	466
Procedure when no application for — (sec. 71)	467
Power to postpone general arrangement of — (sec. 72)	467
Deputy Collector to determine general arrangement of — (sec. 74)	468
General arrangement of — to be submitted for sanction of Collector (sec. 75)	468
Deputy Collector to draw up paper of — (sec. 77)	469
Paper of — to be submitted to Collector (sec. 78)	469
Extracts of paper of — (sec. 79)	469-470
Procedure of Collector on receipt of papers from Deputy Collector (secs. 80, 81)	470
Preparation of fresh paper of — by Collector (sec. 83)	471
Procedure when Collector approves paper of — (sec. 84)	471
When paper of — amended (sec. 85)	471
Paper of — when approved, to be sent to Commissioner (sec. 86)	472
Joint petition for — according to private division (sec. 101)	477
Petition to be referred to Collector (sec. 102)	478
Effect of Collector's approval (sec. 103)	478

**PARTITION—Continued.**

Petition for — may be refused (sec. 104) ...	478
Joint petition for—with redistribution of revenue (sec. 105) ...	478-479
Lands held in severalty may be so allotted (sec. 106) ...	479
Transfer of lands agreed to by the parties (sec. 107) ...	479
Rules as to places of worship, burial, burning grounds &c. (sec. 108) ...	479-480
„ tanks, wells, water-courses and embankments (sec. 109) ...	480
Lands held rent-free not to be divided (sec. 110) ...	480
Rule as to permanent intermediate tenures (sec. 111) ...	480-481
And as to lands in common in two or more estates (sec. 112) ...	481
Payment of expenses of — by proprietors of other estates (sec. 113) ...	483
Allotment of lands held in common (sec. 114) ...	483
Portion of common lands assigned how to be dealt with (sec. 115) ...	483
Procedure where dispute as to lands forming part of parent estate (sec. 116) ...	483-484
„ where after — any proprietor is dispossessed by Civil Court (sec. 117) ...	485
„ on final confirmation of — (sec. 122) ...	486-487
Partition paper to be drawn up in what form (rule 14) ...	503
<i>of Revenue-paying mahals in the N.-W. Provinces.</i>	
Act XIX of 1873 Indian Council Sections 107 to 139. ...	510-530
Perfect and imperfect partition (sec. 107) ...	510
Persons entitled to imperfect partition (sec. 108) ...	510-511
No application for imperfect partition to be entertained except with consent of all sharers (sec. 134) ...	529-530
Civil Courts ousted of their jurisdiction (sec. 135) ...	530
Procedure if question of title be raised (sec. 113) ...	521-522
Orders of Collectors on questions of title appealable (secs. 114 & 115) ...	522-525
Appeal from order of Collector to Commission (sec. 132) ...	529
Provisions relating to revenue-paying mahals applicable to mahals held revenue-free ...	530
Rules for making — ...	511-520
Recorded co-sharer includes a mortgagor ...	511
Proceedings how to be drawn up ...	513
A new survey not required in— ...	513-514
Appointment of amins for — ...	514
Collector to maintain a list of amins ...	516
Register to be kept for cases ...	517
Costs of— ...	517



INDEX.

597

PAGE

PARTITION—Continued.

Proceedings what to contain	...	...	...	519
Question of title	...	...	...	521
Decree to be framed in certain cases	...	...	...	523
Objections relating to distribution of land,	...	...	...	523
Appeal to Revenue Courts	...	...	...	524-529
Mahals to be compact	...	...	...	526
Effect of entry of land as <i>Sir</i> in—	...	...	...	527
Right as to <i>Sir</i> in —	...	...	...	527
<i>of Revenue-paying Mahals in Oudh.</i>				
Act XVII of 1876 Secs. 68—101	...	...	...	531-539
Perfect and imperfect partition (sec. 68)	...	...	...	531
Persons entitled to perfect partition (sec. 69)	...	...	...	531
Application for perfect partition (sec. 70)	...	...	...	531
Provision as to estates situated in more than one District...	...	...	...	531
Notification of application (sec. 71)	...	...	...	532
Notice to co-sharers not joining	...	...	...	532
Notification when alone sufficient (sec. 72)	...	...	...	532
Power to refuse partition when objection admitted (sec. 73)	...	...	...	532
Procedure if question of title be raised (sec. 74)	...	...	...	532
Reference to arbitration	...	...	...	532
Deputy Commissioner's decision equivalent to decision of	...	...	...	...
Civil Court (sec. 75)	...	...	...	533
Appeal therefrom	...	...	...	533
Appellate Court may stay—(sec. 75)	...	...	...	533
Option to make—themselves or to appoint arbitrators (sec. 76)	...	...	...	533
by arbitrators (sec. 77)	...	...	...	533
Power to enter on land for purposes of—(sec. 78)	...	...	...	535
Power to hold mahal under direct management pending—	...	...	...	...
(sec. 79)	...	...	...	535
of lands held only in severalty (sec. 88)	...	...	...	536
of lands some of which are held in common (sec. 81)	...	...	...	536
Formation of separate Mahals from shares allotted in partition (sec. 82)	...	...	...	536
Transfers to be effectuated in making—(sec. 83)	...	...	...	536
where all lands are held in common (sec. 84)	...	...	...	536
Estates to be compact (85)	...	...	...	536
Rule when dwelling house of one sharer is included in mahal assigned to another (sec. 86)	...	...	...	536
Rules as to tanks, wells, water courses and embankments (87)	...	...	...	536
Rules as to places of worship and burial grounds (88)	...	...	...	537
Determination of revenue-payable by each division of a	...	...	...	...
Mahal (sec. 89)	...	...	...	537
Liability of proprietors	...	...	...	537
Power to stay partition (sec. 90)	...	...	...	537



	PAGE
PARTITION—Continued.	
Order confirming partition (sec. 91)	537
when to take effect (sec. 91)	538
Appeal to Commissioner from orders of Deputy Commis- sioner (sec. 92)	538
Power to order new allotment of revenue on proof of fraud or error in first distribution (sec. 93)	538
Making of imperfect — (sec. 94)	538
Civil Courts ousted of jurisdiction to entertain applications for — (sec. 95)	538
Previous imperfect — and — of under proprietary mahals (sec. 96)	538
Union of Mahals originally parts of same village (sec. 97)...	538
Application for such union (sec. 98)	538
„ how dealt with	538
Partition or union of revenue-free Mahals (sec. 99)	539
„ of taluqdari and under-proprietary Mahals (sec. 100)	539
Assignment of inferior Mahals	539
Objection to distribution of rental (sec. 101)	539
<i>In the Punjab.</i>	
Classes of Revenue-officers sec. 6 Act XVII of 1887.	
Appeals, reviews and revisions secs. 13—16.	
Effect of — of estates and tenancies on joint liability for revenue and rent (sec. 110)	540
Application for — (sec. 111)	540
Restrictions and limitations on — (sec. 112)	540
Notice of application for — (sec. 113)	541
Addition of parties to application (sec. 114)	542
Absolute disallowance of — (sec. 115)	542
Procedure on admission of application (sec. 116)	542
Disposal of questions as to title in property to be divided (sec. 117)	542
„ of other questions (sec. 118)	543
Administrator of property excluded from — (sec. 119)	543
Distribution of revenue and rent after — (sec. 120)	543
Instrument of — (sec. 121)	544
Delivery of possession of property allotted on — (sec. 122)	544
Affirmation of — privately effected (sec. 123)	544
Power to make rules as to costs of — (sec. 124)	545
Redistribution of land according to custom (sec. 125)	545
Officers who may be empowered to act in — cases (sec. 126)	545
<i>In the Central Provinces.</i>	
Perfect and imperfect partition (sec. 136)	546



INDEX.

599

PAGE

PARTITION—Continued.

Persons entitled to imperfect — (sec. 136A.) ...	546
" " perfect — (sec. 136B) ...	546
Jurisdiction of Civil Court barred (sec. 136C) ...	547
Application for imperfect — to be made to Deputy Commissioner (sec. 136D) ...	547
Procedure on receipt of application (sec. 136E) ...	547
Objection to — (sec. 136F) ...	547
Objection raising question of title (sec. 136G) ...	547
Effect of Deputy Commissioner's order in such cases and appeals therefrom (sec. 136H) ...	548
Second appeals in such cases (sec. 136I) ...	548
Option to parties to make — themselves or by arbitration (sec. 136J) ...	548
Proceeding to be recorded by Deputy Commissioner before making — (sec. 136K) ...	548
Each patti to be made as compact as possible (sec. 136L) ...	549
Rule when house of one sharer is included in patti of a nother (sec. 136M) ...	549
Sir land of one sharer not to be included without his consent in the patti of another sharer (sec. 136N) ...	549
Rule as to tanks, wells and other irrigation works (sec. 136O) ...	549
" places of worship and burial grounds (sec. 136P) ...	549
Deputy Commissioner may dismiss case for nonpayment of costs or may quash proceedings (sec. 136Q) ...	550
Commissioner's sanction to — necessary (sec. 136R) ...	550
When — sanctioned, notification to be published (sec. 136S) ...	550
Application for perfect — to be made to Settlement Officer (sec. 136T) ...	550
Settlement Officer may declare shares in Mahals to be separate mahals (sec. 136U) ...	550
Power to make rules regarding — proceedings (sec. 136V) ...	551

In Assam.

Regulation I of 1886 Sections 96—121 ...	552-557
Perfect and imperfect — (sec. 96) ...	552
No application for imperfect — to be entertained except with consent of recorded proprietors holding in the aggregate more than one moiety of the estate (sec. 98) ...	553
Persons entitled to partition ...	552
Application for perfect partition ...	553
Notification of application ...	553
Objection on question of title ...	553
Other objections how dealt with ...	553

**PARTITION—Continued.**

Proceedings of Deputy Commissioner after objections have been disposed of	554
Mode of —	554
Power to enter on land for purposes of —	554
of lands held only in severalty	554
of lands some of which are held in common	554
Transfers to be effectuated in making —	555
Estates to be compact	555
Rule when building of one co-sharer is included in estate belonging to another	555
„ as to tanks, wells, water-courses and embankments	555
„ as to places of worship and burial grounds	555
Determination of revenue payable by each proprietor of divided estate	556
Costs in —	556
Power to stay —	556
Proclamation of —	556
Appeal from decision of Deputy Commissioner	556
Power to order new allotment on proof of fraud or error in first distribution	557
Making imperfect —	557
Persons entitled to union	557
Power to make rules	557
<i>In Bombay.</i>	
Bombay Act V of 1879 secs. 113—117	563-568
Division, if possible, to be according to Survey numbers (sec. 113)	564
In Khoti Estate if co-sharers owning in the aggregate more than one-half apply for partition and there be no dispute as to sharers, — may be effected (sec. 114)	567
Survey numbers can be re-adjusted at revision of Survey (sec. 115)	567
Separate demarcation of lands appropriated for non-agricultural purposes	568
Bombay Act V of 1862 not affected	568
Partition of Inams under Summary Settlement	564
Travelling expenses of persons entrusted with —	565
Recovery of fees and expenses	566
<i>In Madras.</i>	
Madras Act II of 1864	560-561
I of 1876	561-562
Regulation 25, 2 of 1802	558
2 of 1803	559-560
Restrictions on proprietors transferring shares	558



INDEX.

601

PAGE

PARTITION—Continued.

Proprietors to furnish accounts in cases of transfers of portion	558, 560
Principle regulating assessment on part to be separated ...	558
Collectors to be responsible for apportioning assessment on subdivisions	559
" to furnish proprietors with statements of amounts apportioned	559
Appeal from Collector's assessment	559
Attachments of land to be reported to Board	559
Rules to be observed in attaching portions of estates	559
In forming sub-divisions lands watered by one tank to be kept in same sub-division	559
Registers of transfers of lands	560
Sale of land for arrears	560
Apportionment of assessment on sub-division	560
Confirmation of apportionment by Board	561
Application for registry and separate assessment	561
Inquiry by Collector	561
Procedure as to enquiry	561
In what case registry and separate assessment should be made	561
Proportion of land revenue to be deducted	562
Separate liabilities of separated portions	562
Persons aggrieved by registration or by refusal of registration may sue in Civil Courts	562
" " by assessment may appeal to Board of Revenue	562
Power to re-adjust assessment	562
Standing orders of Board of Revenue Madras... ..	569-72
of tenancies under the Bengal Tenancy Act	241

PARTNERSHIP PROPERTY—What	249
Share of each partner in—	249
is primarily liable for partnership debts in preference to personal debts	249

PATRIARCHAL FAMILY—	30
-----------------------------------	----

PATRIARCHAL POWERS—extent of—	31
Gradual changes in—	32
Curtailement of—	34
Transition from <i>Status</i> to <i>Contract</i>	35

PATRIMONY—What amounts to spending of—	58
--	----

PATTIDARI SYSTEM—	39
---------------------------------	----

PLAINT IN PARTITION SUIT—	400-402
---	---------



	PAGE
PRE-EMPTION—	
as incident of joint property	11
Definition of —	194
among <i>Shurreeks</i> or partners in land	195
„ <i>Khulleets</i> or partners in appurtenances	195
„ <i>Moolasiks</i> or contiguous neighbours	195
Pre-emptors must be absolute owners and not tenants	195
in <i>Benamtee</i> or <i>fursi</i> purchases	195
Hindu widow can pre-empt	195
Mahomedan law determines incidents of — except when custom overrides it	195, 198
prevails only where Mahomedan influence was predominant	196
is generally provided for in <i>Wajib-ul-urs</i>	197-200
Reasons for observance of forms in order to complete the right of —	198
prevailed even among ancient Hindus	199
prevails in different districts	199
is not confined to cases of Mahomedan co-sharers or Mahomedan vendees	199-200
Conditions under which it arises	
(1) Sale must be absolute	201
In conditional sales only when sale becomes absolute	201
(2) Sale must be complete	201-202
(3) Sale must be exchange of property for property	202
Sale in liquidation of dower gives rise to it	202
But not gift, charity, bequest, or inheritance	202
(4) Pre-emptor must be a co-sharer	202-203
(5) No pre-emption against purchase by co-sharer	202
Sharer in substance has prior right	203
Next to him the sharer in appurtenances	203
Next the neighbour	203
Special partner is preferred to a general	203-205
Pre-emptor must take whole property sold	205
except when two persons purchase separately under same document	206
or when a co-sharer and a stranger purchase together	206
Co-sharers of same class owning unequal shares pre-empt equally	206-207
Right of absent co-sharers to pre-empt	207
Preliminaries to be observed for perfecting the right	207
When does the right commence	207
First demand : <i>tulub moowuthubut</i>	207
Second demand : <i>tulub-ish-had</i> or <i>tulub tukreer</i>	208



INDEX.

603

PAGE

PRE-EMPTION—Continued.

Strict observance of forms necessary	...	...	208-209
Suit for—	...	...	209
Limitation applicable to such suit	...	...	206
Valuation of suit to determine jurisdiction	...	...	209
" for purposes of Court Fees	...	...	209
Parties to such suits	...	...	209, 269
Not necessary to deposit price when filing plaint	...	...	210
Court to determine price bargained for and not market price	...	...	210
Evidence necessary to show price bargained for	...	...	210
Resignation by a co-sharer must be before decree in order that another co-sharer may benefit	...	...	211
So also resignation by a pre-emptor of superior class in order that one in lower class may benefit	...	...	211
Loss of right of—by laches	...	...	211
Ceremonies may be performed by agent	...	...	212
When right which had accrued ceases	...	...	212
Right of—revives upon correct information as to price, purchaser or thing sold	...	...	212
Improvements made by purchaser to be paid for or not	...	...	213
Pre-emptor entitled to reduction of price if property be deteriorated by purchaser	...	...	213
Pre-emptor acquires free of encumbrances created by purchaser	...	...	213
in auction sales	...	...	213
according to statutes	...	...	213-214
Devices to defeat—	...	...	214
Form of decree in suits for—	...	...	215
Time for payment of price to be fixed in decree	...	...	215
Appellate court may extend such time	...	...	215
Pre-emptor not entitled to mesne profits	...	...	21
Among <i>shias</i> —exists only between two sharers	...	...	216

PRESUMPTIONS—

as to property purchased in the name of a member of a joint family	...	...	87, 186
even of a female member	...	...	88
of jointness of family members	...	...	89-92
of possession by whole family from proved possession by a member	...	...	92, 93, 261-262
of property being joint in preference to its being separate property	...	...	89-92
that acquisition by a member of family is for family has no place among Mahomedans	...	...	193
that all joint property is partible	...	...	276
that impartible estates are alienable	...	...	281



	PAGE
PRIMOGENITURE —in partible estates	282
PROCEDURE —	
all coparceners under Mitakshara must sue for recovery of joint property	264
Exceptions	264
No suit to lie for share of joint property by a member under Mitakshara before partition	263
But not so under Dayabhaga	268
when plaintiff sues as manager on behalf of others	266
English rule as to parties in suits for joint property	267
Exception and its reason	267
in suits by sharers in a Dayabhaga or Mahomedan family	268
When decree upon joint liability has been obtained against some sharers others cannot be sued	268
in suits by single co-sharers for enhancement of rent	234, 268
" " for ejection from joint land	239, 268
in suits to enforce right to share	269
in suits for determination of incidents of tenancy	234
in suits for pre-emption : see Pre-emption	209
in suits for partition : see Partition	371
in suits for maintenance	269
PROPERTY —	
What is meant by the term	2
of sons was father's in ancient days	33
PURCHASER from a Dayabhaga co-sharer	186-87
from Mahomedan co-sharer	194
of family property under Mitakshara what to prove when his purchase is disputed as to its effectiveness or extent	138
PUTNEE from a co-sharer before partition	398
RATIFICATION —of sale by sons under Mitakshara born before and after such sale	165-66
RECEIVERS —in partition suits	272
RECITALS —in deed no evidence of legal necessity	143
RECOVERED ANCESTRAL PROPERTY —not coparcenary property when no patrimony is spent for its recovery	59-60, 186
REDEMPTION OF RENTS —of land occupied by dwelling houses &c. in partition	473-74
REFUND —of purchase-money by sons under Mitakshara a condition precedent to the setting aside of sales	167-68
This principle has no application to sales in execution of decrees	166



INDEX.

605

PAGE

REFUND—Continued.

No refund when the consideration money was spent by father in immoral purposes and the sale is set aside after his death	167
---	-----

REGISTRATION—of shares under Act VII (B. C.) of 1876 238

REPORTED cases on the subject of alienations of ancestral joint property under Mitakshara not consistent ...	169-70
---	--------

RE-UNION—What ... 342

Only among certain relation under Mitakshara ...	342-43
--	--------

under Dayabhaga	358
------------------------	-----

Shares of brothers of whole and half-blood under Mitakshara	343
---	-----

under Dayabhaga	357-58
------------------------	--------

Onus to show	345
---------------------	-----

SALE of family property under Mitakshara

by any member of family for purposes of family	101-105, 122-145
--	------------------

by father to pay his antecedent debt binds family ...	142-143
---	---------

except when sons show the debt was immoral to purchaser's knowledge	142
--	-----

Voluntary sale in Bengal or the N.-W. Provinces of an	
---	--

undivided share is ineffectual	111-116
---------------------------------------	---------

Not so in Bombay or Madras	116-118
-----------------------------------	---------

Compulsory Sale of undivided share in execution of decree	
---	--

passes such share in all provinces	118-120
---	---------

How is the extent of the share to which the purchaser is	
--	--

entitled determined	145-160
----------------------------	---------

Whether purchaser's interest should be partitioned at ins-	
--	--

tance of purchaser or of the coparcener whose interest	
--	--

he has purchased	120
-------------------------	-----

What is the point of time which determines the share to	
---	--

which purchaser is entitled	120-121
------------------------------------	---------

At a sale in execution of decree against father purchaser	
---	--

would be entitled to entire family property if he has	
---	--

paid for it and if the sons fail to show the decree-debt	
--	--

was immoral to purchaser's knowledge	139
---	-----

At a sale in execution of decree against any other member	
---	--

purchaser would be entitled to entire family property if	
--	--

he paid for it and if he shows legal necessity ...	139
--	-----

SALE in execution of decree under Mitakshara law

Enquiry into what the purchaser has actually purchased ...	145-160
--	---------

Name of judgment-debtor not conclusive on the point ...	145-151
---	---------

on mortgage, presumption that purchaser purchased pro-	
--	--

perty mortgaged	157-158
------------------------	---------

If father is mortgagor whole property passes unless sons	
--	--

show the debt was immoral	159
----------------------------------	-----



	PAGE
SALE—Continued.	
of the interest of a deceased debtor passes nothing ...	162-163
Except when the decree is on mortgage ...	163
or when attachment takes place during life ...	163
But after death of an indebted father, sons and grandsons may be sued to pay such debt if it was not illegal or immoral	164
SALE OF COPARCENER'S INTEREST—	
under Dayabhaga ...	186-187
under Mahomedan Law ...	194
SAVINGS made by proprietors for time being of impartible estates are not joint property ...	64, 116
SEPARATION—	
partial, as to some members ...	310-312, 371, 373
" as to property ...	313, 374-375
Its effect on other properties ...	314-315
SHURREEK—See Pre-emption.	
SONS—	
under Dayabhaga have no interest in father's property acquired or ancestral during father's lifetime ...	172-173, 176, 349
under Mitakshara acquire by birth interest with their father in ancestral property ...	43, 47, 49-50
But not so under Dayabhaga ...	172, 173, 176, 349
The word 'Sons' does not under Mitakshara include grandsons ...	50
Son's property was father's in ancient days ...	33
by wives of different castes are not coparceners ...	46
begotten by a Sudra on a female slave are not coparceners ...	46
share equally with father at partition under Mitakshara ...	330
under Dayabhaga inherit equally property left by father ...	350
Son's share under Mahomedan Law ...	361
Sons under Mitakshara bound to pay father's debts not immoral ...	126-133
SUIT—	
different kinds of, with respect to joint property ...	252
for Partition : See Partition ...	378-386
for Pre-emption : See Pre-emption ...	269
for Contribution : See Contribution ; See Procedure ...	223, 268-269
by a creditor wishing to sell entire family property should be against all coparceners ...	183
Even when it is upon mortgage executed by a single member for determination of incidents of tenancies under joint landlords must be brought by whole body of proprietors	150-151 234
See: Procedure	



INDEX.	607
	PAGE
STATUTES for Partition (English) ...	31, 32 Vict. Cap. 40
SURRENDER—	
by one of several tenants ...	241
of right of pre-emption ...	213-214
SURVIVORSHIP obtains among Mitakshara coparceners ...	48, 49
among widows and daughters ...	6, 7, 341-42, 359
TENANCY IN COMMON compared with Dayabhaga	
coparcenary ...	174
TEXTS explained differently in Dayabhaga and Mitakshara	176-178
TITLE—failure of —after partition ...	309-310
TITLE-DEEDS—Custody of—in partition ...	395-397
TULUB-ISH-HAD—See Pre-emption.	
TULUB-MOOWUTHUBUT—See Pre-emption.	
TULUB-TUKREER—See Pre-emption.	
UNOBSTRUCTED HERITAGE in Mitakshara ...	43, 49
VALUATION of Pre-emption suits : See Pre-emption.	
of suits for shares of family property under Court Fees	
Act ...	269
of suits for maintenance ...	269
of suits for partition under Court Fees Act ...	269
of such suits for jurisdiction ...	270-271
VESTED INTEREST—Persons who acquire — on birth	
under Mitakshara ...	43
VICT : 31, 32 Cap 40 ...	377
VILLAGE COMMUNITIES in India ...	36-38
WAJIB-UL-URZ provides for pre-emption in several locali-	
ties ...	200-201
WASTE by co-sharer, remedy against ...	226-231
WIDOWS—partition among ...	359, 341
WIVES of disqualified heirs to be maintained ...	357
WOMAN'S ESTATE IN PROPERTY INHERITED—	
under Mahomedan Law ...	362
under the Law in the Bombay Presidency ...	188

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