

**FORMAT**

Court of District Judge/Additional District Judge, District.....

Court of Civil Judge (Senior Division / Junior Division), District.....

Suit No. .... Year.....

..... Versus .....

**Order/Judgment**

(Under Order VII Rule 10 and 10A CPC)

(Regarding return of plaint to the Plaintiff/Plaintiffs)

**Date:-**

1- This plaint dated.....has been filed by the plaintiff/plaintiffs to seek the following relief from this civil court against the defendant/defendants in respect of Landholding *Khatauni Arazi No.* .....Gram Sabha..... Tahsil ..... District....., on the basis of the attached Title Document i.e. *Revenue Khatauni* of holding. The relief mentioned in this plaint is being quoted below:-

**Reliefs :**

(1)-

(2)-

(3)-

2- The above relief i.e:-Partition/Division of holdings is related to the Tahsil revenue record; in respect of which jurisdiction vests in the competent Revenue Court, Tahsil....., District.....Under section 116 and 117 of the UP Revenue Code, 2006 read with rules 107, 108 and 109 of the UP Revenue Code Rules, 2016, and after deciding the suit, the Revenue Court has also jurisdiction for execution of the its Order/Judgment.

Section 116 and 117 of the U.P. Revenue Code, 2006 read with rules 107, 108 and 109 of the U.P. Revenue Code Rules, 2016 are being quoted below:-

**Section 116. Suit for division of holding** (1) *A bhumidhar may sue for the division of the holding of which he is a co-sharer.*

(2) In every such suit, the Court may also divide the trees, wells and other improvements existing on such holding but where such division is not possible, the trees, wells and other improvements aforesaid and valuation thereof shall be divided and adjusted in the manner prescribed.

(3) One suit may be instituted for the division of more holdings than one where all the parties to the suit other than the Gram Panchayat are, jointly interested in each of the holdings.

(4) to every suit under this section, the Gram Panchayat concerned shall be made a party.

**Section 117. Duty of Court in suits for division of holding.**-(1) In every suit for division of holding under section 116 the Court of Assistant Collector shall-

(a) follow such procedure as may be prescribed;

(b) apportion the land revenue payable in respect of each such division.

(2) A division of holding referred to in section 116 shall not affect the joint liability of the tenure-holders thereof in respect of the land revenue payable before the date of the final decree.

Rules – 107, 108 and 109 of UP Revenue Code Rules, 2016 are quoted herein below :-

**Rule 107. Suit for division of holding (Section 116).** - Every plaint in a suit for division of a holding (including trees, wells and other improvements) shall contain the following particulars:-

(1) Name, parentage and address of the plaintiff.

(2) Name parentage and address of other co-sharers of the holding.

(3) Share claimed by the plaintiff.

(4) Share of other co-tenure holders.

(5) Detailed particulars of the holding including plot numbers, area and land revenue.

(6) Whether the plaintiff is a recorded or unrecorded tenure holder.

**Note:** The plaint shall be accompanied by a certified copy of the Khatauni and other documents relied upon by the plaintiff.

**Rule 108. Suit for division for several holdings (Section 116).**- Where the suit relates to the division of more than one holding, the particulars specified in rule 107 shall be mentioned in the plaint in respect of all such holdings.

**Rule 109. Preliminary and Final decrees (Section 117).**-(1) If the plaint referred to in rule 107 or rule 108 is in order, it shall be registered as a suit and the defendants shall be called upon to file their written statements. The suit shall then be decided according to the provisions of the Code of Civil Procedure, 1908.

(2) Before making a division the court shall-

(a) determine separately the share of the plaintiff and each of the other co-tenure holders ;

(b) record which, if any, of the co-tenure holders wish to remain joint ; and

(c) make valuation of the holding (or holdings) in accordance with the circle rate fixed by the Collector applicable to each plot in the holding.

(3) If the suit is decreed, the Court shall pass a preliminary decree declaring the share of the plaintiff.

*(4) After the preparation of preliminary decree the Sub Divisional Officer shall get the Kurra prepared through the Lekhpal.*

*(5) The Lekhpal shall submit the Kurra report within a period of one month from the date of receiving the order in this regard and at the time of preparation of Kurra he shall observe the following principles-*

*(a) the plot or plots shall be allotted to each party in proportionate to his share in the holding;*

*(b) the portion allotted to each party shall be as compact as possible;*

*(c) as far as possible no party shall be given all the inferior or all the superior classes of land;*

*(d) as far as possible existing fields shall not be split up;*

*(e) Plots which are in the separate possession of a tenure holder shall, as far as possible, be allotted to such tenure holder if they are not in access of his share;*

*(f) If the plot or any part thereof is of commercial value or is adjacent to road, abadi or any other land of commercial value, the same shall be allotted to each tenure holder proportionately and in the case of second condition the same shall be allotted proportionately adjacent to road, abadi or other land of commercial value; and*

*(g) If the co-tenure holders are in separate possession on the basis of mutual consent or family settlement, the Kurra shall, as far as possible, be fixed accordingly.*

*(6) When the report regarding Kurra is submitted by the Lekhpal, the objection shall be invited thereon and thereafter the appropriate order shall be passed by the Sub Divisional Officer after affording opportunity of hearing to the parties and considering the objection, if any, filed against the report submitted by the Lekhpal.*

*(7) If the report and Kurra is confirmed by the Sub Divisional Officer, the final decree shall follow it.*

*(8) At the stage of the final decree, the Court shall-*

*(a) Separate the share of the plaintiff from that of the defendant by metes and bounds.*

*(b) Place on record a map showing in different colours the properties given to plaintiff as distinct from those given to the defendant.*

*(c) Apportion the land revenue payable by the parties.*

*(d) Direct the record of rights and map to be corrected accordingly.*

*(9) If, for adjusting the equities between the parties, payment of compensation regarding trees, wells or other improvements becomes necessary, the revenue Court concerned may also pass necessary orders at the stage of final decree.*

*(10) The Sub-Divisional Officer shall make an endeavor to decide the suit within the period of six months and if the suit is not decided within such period, the reason shall be recorded."*

**3-** If any suit is filed by the plaintiff in a Civil Court, the Civil Court can see first of all, whether the relief sought by the plaintiff is in respect of a revenue khatauni holding or not and whether same is falling within the purview of

the Uttar Pradesh Revenue Code 2006 and Uttar Pradesh Revenue Code Rules, 2016 under :-

- i. Section 24 read with Rule 22 (Demarcation of boundaries) or,,
  - ii. Section 25 and 26 read with Rule 23 (Rights of way and easement) or,
  - iii. Section 30(1) read with Rule 25 (Maintenance of map and field book) or,
  - iv. Section 30(2) read with Rule 26 (Partition/Division of minjumla plot) or,
  - v. Section 34 read with Rule 34 (Duty to report in cases of transfer) or,
  - vi. Section 35 read with Rule 34 and 35 (Mutation in cases of succession or transfer) or,
  - vii. Section 67 read with Rule 66 (Power to prevent damage, misappropriate and wrongful occupation of gram panchayat property) or,
  - viii. Section 67A read with Rule 68 (Certain house sites to be settled with existing owners thereof) or,
  - ix. Section 116 and 117 read with Rules 107, 108 and 109 (Partition/Division of holdings) or,
  - x. Section 133 (suit for injunction, compensation) or,
  - xi. Section 134 read with Rule 127 (Ejectment of persons occupying land without title) or,
  - xii. Section 144 and 146 (Declaratory suits by tenure-holders)
- and other relevant section and rule. And on which the revenue court has exclusive jurisdiction to try it rather than the civil court.

4- If a suit is filed in a civil court, the civil court itself at the preliminary stage of suit has right to look into the matter; whether the suit is covered / barred by:-

- i. the Uttar Pradesh Revenue Act 2006 or,
- ii. Uttar Pradesh Consolidation of Holdings Act 1953 or,
- iii. Indian Forest Act 1927 or,
- iv. The Public Premises (Eviction of Unauthorised Occupants) Act 1971 or,
- v. The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Act, 2002
- vi. Commercial Courts Act, 2015

or any other specific act, and due to which this civil court does not have the jurisdiction to try the suit and if such a suit is not maintainable, under Order VII, Rule 10 and 10A of the Code of Civil Procedure (CPC), it should immediately be returned to the plaintiff for its institution and trial in the competent revenue court.

5- It is pertinent to mention here that the Code of Civil Procedure and the Revenue Code, 2006 both specifically describe as to in which cases the Revenue Court has the jurisdiction to try the suit and in which cases the Civil court is prohibited from trying the suit.

6- Section 4 of the Code of Civil Procedure deals with “Savings”. This section makes it clear that the provisions of the Code of Civil Procedure shall not limit or affect any special or local laws or special jurisdiction or power conferred by any other law for the time being in force. For example, if a law like Rent Control Act or Land Reforms Law, or any other State specific law is in force and that law prescribes a specific procedure or rule, the general rules of the Code of Civil Procedure (CPC) shall not prevail over that special law while the Special law shall prevail.

Section 4 of the Code of Civil Procedure is being quoted below:

*Section 4. Savings. - (1) In the absence of any specific provision to the contrary, nothing in this Code shall be deemed to limit or otherwise affect any special or local law now in force or any special jurisdiction or power conferred, or any special form of procedure prescribed, by or under any other law for the time being in force.*

*(2) In particular and without prejudice to the generality of the proposition contained in sub-section (1), nothing in this Code shall be deemed to limit or otherwise affect any remedy which a landholder or landlord may have under any law for the time being in force for the recovery of rent of agricultural land from the produce of such land.*

7- Section 5 of the Code of Civil Procedure deals with Revenue Courts. This Section clarifies how the provisions of the Code of Civil Procedure will apply to the Revenue Courts. It allows the Revenue Courts to function according to their special nature while giving them the option to adopt the relevant provisions of the Code of Civil Procedure (CPC) whenever required; Section 5 ensures that Revenue Courts, which deal with special types of cases by following their own specific procedures.

Section 05 of the Code of Civil Procedure is being quoted below:-

*Section 5. Application of the Code to Revenue Courts. - (1) Where any Revenue Courts are governed by the provisions of this Code in those matters of procedure upon which any special enactment applicable to them is silent, the State Government [\* \* \*] may, by notification in the Official Gazette, declare that any portions of those provisions which are not expressly made applicable by this Code shall not apply to those Courts, or shall only apply to them with such modifications as the State Government [\* \* \*] may prescribe.*

*(2) "Revenue Court" in sub-section (1) means a Court having jurisdiction under any local law to entertain suits or other proceedings relating to the rent, revenue or profits of land used for*

*agricultural purposes, but does not include a Civil Court having original jurisdiction under this Code to try such suits or proceedings as being suits or proceedings of a civil nature.*

**8- Section 9 of the Code of Civil Procedure (CPC)** deals with the jurisdiction of civil courts. This is a fundamental and important provision regarding the jurisdiction of civil courts. This section lays down the general rule of the jurisdiction of civil courts. It provides that a civil court can only hear the subjects matter which is not barred by any law expressly or impliedly. Section 9 of the Code of Civil Procedure is being quoted below :-

**Section 9. Courts to try all civil suits unless barred.**

*The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly **barred**.*

**Explanation I**--*A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.*

**Explanation II**--*For the purposes of this section, it is immaterial whether or not any fees are attached to the office referred to in Explanation I or whether or not such office is attached to a particular place.*

**9- Section 206 of the Uttar Pradesh Revenue Code, 2006,** deals with the exclusion of jurisdiction of civil courts. This Section prohibits the interference of civil courts in revenue matters, thereby clarifying the jurisdiction of revenue courts. This section mainly establishes that, in certain revenue matters, civil courts shall not have jurisdiction to entertain any suit, application or proceedings. Its purpose is to provide exclusive jurisdiction to revenue courts in cases for which such courts have been specially constituted.

**10- Section 206 of the Uttar Pradesh Revenue Code, 2006,** and the attached Schedules 2 and 3 describe as in which Revenue Court and under what provision of the U.P. Revenue code and rules, the suit for partition /division of holding, suit for declaration, suit for ejection, suit for injunction, suit for recovery, suit for compensation and suit for damages, etc., shall be filed.

Section 206 of the Revenue Code, 2006 and the appended Schedules 2 and 3 are being quoted below:-

**Section 206. Jurisdiction of civil Courts and revenue courts**

(1) *Notwithstanding anything contained in any law for the time being in force, but subject to the provisions of this Code, **no Civil Court shall entertain any suit, application or proceeding to obtain a decision or order on any matter which the State Government, the Board, any Revenue Court or revenue Officer is, by or under this Code, empowered to determine, decide or dispose of.***

(2) *Without prejudice to the generality of the provisions of sub-section (1), and save as otherwise expressly provided by or under this Code-*

(a) ***no Civil Court shall exercise jurisdiction over any of the matters specified in the Second Schedule; and***

(b) ***no Court other than the revenue Court or the revenue officer specified in column 3 of the Third Schedule shall entertain any suit, application or proceeding specified in column 2 thereof.***

(3) *Notwithstanding anything contained in this Code, an objection that a Court or officer mentioned in sub-section (2)(b) had or had no jurisdiction with respect to any suit, application or proceeding, shall not be entertained by any appellate, revisional or executing Court, unless the objection was taken before the Court or officer of the first instance, at the earliest opportunity, and in all cases where issues are settled at or before such settlement, and unless there has been a consequent failure of justice.*

#### SECOND SCHEDULE

(See Sections 206 (2)(a))

#### **Matters excluded from the jurisdiction of the Civil Court**

1. Any question regarding the determination of boundaries or fixing of boundary marks.
2. Any claim to question a decision determining abadi made by the Collector.
3. Any claim to have any entry made in any revenue records or to have any such entry omitted, amended or substituted.
4. Any question regarding the assessment, remission or suspension of land revenue or rent.
5. Any claim connected with or arising out of the collection by the State Government or the enforcement by such Government of any process for the recovery of land revenue or any sum recoverable as an arrear of land revenue under this Code or any other law for the time being in force.
6. Any claim against the vesting of any property in the State Government, Gram Panchayat or other local authority *under this Code*.
7. Any question relating to the levy or imposition of the fine, cost, expense, charge, penalty or compensation under this Code.
8. Any question regarding reinstatement of a bhumidhar or asami wrongfully ejected or dispossessed from any land.
9. Any claim to compel the performance of any duty imposed by this Code on any revenue officer appointed under this Code.
10. Any question, relating to division, creation, amalgamation, abolition or readjustment of revenue areas and Lekhpal's circles under Chapter II.
11. Any question relating to the allotment of land referred to in section 64 or section 125 or cancellation of such allotment.
12. Any claim to question a direction issued by the Collector under section 71.

13. Any claim to question the delivery of possession over any land and part thereof referred to in section 124, or the eviction of any person under section 134 or section 201.

14. Any claim to question the validity of any order made by the State Government under Chapter XI.

15. Any claim regarding possession over any land.

16. Any claim to establish the rights of a co-tenure holder in respect of any land

**THIRD SCHEDULE**

(See Sections 206, 207 and 208)

Section	Description of suit, application or proceedings	Court or Officer to original jurisdiction	First Appeal	Second Appeal
24	Boundary and boundary marks	Sub-Divisional Officer	Commissioner	.....
35	Mutation case	Tahsildar	Sub-Divisional Officer	NIL
54, 56, 57	Disputes relating to trees	Collector	Commissioner	.....
67	Eviction of illegal occupier from Gram Panchayat land	Assistant Collector	Collector	.....
82(2) (C)	Suit for ejection by a bhumidhar against the person in possession of any land on the basis of a contract or lease	Sub-Divisional Officer	Commissioner	Board
85(1)	Suit for ejection by Gram Panchayat against a bhumidhar with non-transferable right	DO	DO	DO
85(2)	Suit for ejection by a land holder against an asami	DO	DO	DO
96(2)	Suit for partition by a disabled co-sharer	DO	DO	DO
116	suit for division of a holding	DO	DO	DO
131(1)	Suit for ejection of an asami	DO	DO	DO
131(4)	Suit for recovery of arrears of rent against asami	Sub Divisional Officer	Collector	NIL
133	Suit for injunction, compensation etc	Sub Divisional Officer	Collector	NIL
134	Suit for ejection against a person occupying land without title or for damages or for both	Sub Divisional Officer	Commissioner	Board
137(1)	Suit for possession, compensation or injunction	DO	DO	DO

139(1)	Application for fixation of rent	Tahsildar	Sub -Divisional Officer	Nil
141(1)	Application for commutation of rent	Sub -Divisional Officer	Collector	NIL
144	suit for declaration by bhumidhar or asami	DO	Commissioner	Board
145	suit for declaration by bhumidhar or asami	DO	DO	DO
151(1)	Suit by a Government lessee for ejection or for damage or both	DO	DO	DO

Note.- The suits appearing in the entries relating to section 82(2)(c) to section 131(1), sections 134, 137(1) and section 139(1) to section 151 (1) may be heard and decided also by any Assistant Collector, First Class (other than the Sub-Divisional Officer) to whom the case may be transferred by general or special order of the Collector.

**11-** Section 214 of the Uttar Pradesh Revenue Code, 2006 deals with limitation, Section 216 with the service of notice, and Section 225-B with caveats, all of which contain procedural provisions in a revenue court.

**12-** Provision regarding Ad interim ex parte order has been given in Paragraph 489 of Chapter 49 of The U.P. Revenue Court Manual and The Provision regarding execution of order/judgment passed by the Revenue Court is given in paragraph 460 of Uttar Pradesh Revenue Court Manual.

**13-** Detailed provision has been given in respect of the proceeding of the revenue court in the Uttar Pradesh Revenue Court Manual. In Chapters 1 to 5 of the U.P. Revenue court manual, it has been provided that the Revenue Court shall initiate the judicial proceedings for deciding the revenue matters by passing an order or judgement and also its execution.

It has been mentioned in sections of the U.P. Revenue Code, 2006, the U.P. Revenue Code Rules, 2016, and the U.P. Revenue Court Manual that a revenue court shall initiate judicial proceedings on a subject matter mentioned in the revenue record holding (khatauni).

It has been described in details, as under which section of the U.P. Revenue Code, 2006, under which rules of the U.P. Revenue Code Rules, 2016, and in which paragraph of the U.P. Revenue Court Manual, the Revenue Court shall initiate judicial proceedings for deciding the revenue matters and also its execution.

**14-** The Revenue Court has also power to initiate a contempt Proceedings for violation of the *Injunction* passed by it in a revenue suit.

The Hon'ble Allahabad High Court has clearly described in paragraph 23 of the

order dated 30.03.2007 passed in *Ajab Lal vs Rakesh Kumar Mishra and ors.* *AIR 2007 ALL 158* that the Revenue Court can punish a revenue case (Suit case Proceedings) by filing a contempt suit (Contempt proceedings) under Order 39 Rule 2A for violation of the injunction passed in revenue matters.

Paragraph 23 of the aforesaid decision is being quoted below-

*23. For the reasons as indicated herein above, I am of the firm opinion that the provisions of Rule 2A of Order 39 C.P.C. clearly apply in respect of injunctions granted under Section 229D of the U.P.Z.A. and L.R. Act, 1950 and therefore, the contention raised by the learned Counsel for the applicant that such an application would not be maintainable deserves to be rejected. I find myself in full agreement with the judgment of this Court rendered in the case of State of U.P. v. Bihari Lal 2002 All LJ 2393 (supra).*

## 15- Judgment of Hon'ble Supreme Court And High Court :

The Division Bench of the Hon'ble High Court in the order dated 21.07.2023 passed in Writ C. No. 6061 of 2023 (Chandradev Singh and anr. vs. State of Uttar Pradesh and ors.) has described that the Revenue Court has the jurisdiction of execution of decree and order under paragraph 460 of Uttar Pradesh Revenue Court Manual.

The relevant part of the decision is being quoted below-

*In the case Ajab Lal vs. Rakesh Kumar Mishra & Ors. Reported in AIR 2007 ALL pg. 158, the position as regards execution of orders passed by the revenue court was dealt with and it was held that the revenue court itself are possessed with such a jurisdiction.*

*On the same very analogy, we permit the petitioner to institute an appropriate proceeding before the Revenue court and in case any such proceedings are instituted, the competent court shall proceed in accordance with law and finalize the execution proceedings without any delay.*

### *1. Budhhu Mal & Ors. Vs Mahabir Prasad & Ors. 1988 (4) SCC 194*

In this case, the Hon'ble Supreme Court held that under section 23 of the Provincial Court of small Causes, the Court of Small Causes has the discretion to return the plaint especially when the plaint is related to the property rights. If it finds that the suit involves a question of right to property which it cannot decide, withdrawal of the plaint may be necessary for the purpose of complete justice, directed the plaint to be withdrawn from the Court of Small Causes and to be presented before the appropriate Court.

The relevant part of the judgment is being quoted below.

*10. It is true that Section 23 does not make it obligatory on the Court of Small Causes to invariably return the plaint once a question of title is raised by the tenant. It is also true that in a suit instituted by the landlord against his tenant on the basis of contract of tenancy, a question of title could also incidentally be gone into and that*

*any finding recorded by a Judge, Small Causes in this behalf could not be res judicata in a suit based on title. It cannot, however, be gainsaid that in enacting Section 23 the legislature must have had in contemplation some cases in which the discretion to return the plaint ought to be exercised in order to do complete justice between the parties. On the facts of the instant cases we feel that these are such cases in which in order to do complete justice between the parties the plaints ought to have been returned for presentation to a court having jurisdiction to determine the title. In case the plea set up by the appellants that by the deed dated December 8, 1966 the benefit arising out of immovable property which itself constituted immovable property was transferred and in pursuance of the information conveyed in this behalf by Mahabir Prasad to them the appellants started paying rent to Smt Sulochna Devi and that the said deed could not be unilaterally cancelled, is accepted, it is likely not only to affect the title of Mahabir Prasad to realise rent from the appellants but will also have the effect of snapping even the relationship of landlord and tenant, between Mahabir Prasad and the appellants which could not be revived by the subsequent unilateral cancellation by Mahabir Prasad of the said deed dated December 8, 1966. In that event it may not be possible to treat the suits filed by Mahabir Prasad against the appellants to be suits between landlord and tenant simpliciter based on contract of tenancy in which an issue of title was incidentally raised. If the suits cannot be construed to be one between landlord and tenant they would not be cognizable by a Court of Small Causes and it is for these reasons that we are of the opinion that these are such cases where the plaints ought to have been returned for presentation to appropriate court so that none of the parties was prejudiced.*

## **2. Bansraj Vs Moti, [2019 (11) ADJ 185]**

In this case Allahabad High Court made it clear that if the trial of a suit is barred by any special law and if the civil court does not have jurisdiction to try such a case, then it should not dismiss the plaint straightaway, instead it should return the plaint to the plaintiff under Order 7 Rule 10 of the Civil Procedure Code (CPC), so that he can present it before the appropriate revenue court. And Order 7 Rule 10 and Explanation of the Civil Procedure Code states that the Appellate/ Revision Civil Court may, if the trial court does not have jurisdiction, set aside the decree passed and return the suit to the plaintiff/ plaintiffs for prosecution in the competent court under Order 7 Rule 10(1).

The relevant part of the judgment is being quoted below:

28. Proceeding on the well settled principle that a Court which has no jurisdiction to determine a suit ought not decide it, *there is no difficulty to hold that once it is found that the Court has no jurisdiction to decide the suit, it ought not to dismiss for that reason; the plaint should instead be ordered to be returned for presentation to the competent Court. It is also not that this course is open to the Trial Court alone, or that it is confined to early stages of the Trial. The words of Order VII Rule 10 CPC express with great felicity the clear intent of the legislature that the power to return a plaint can be exercised at any stage of the suit. The explanation added to Rule 10 of Order VII CPC vide CPC Amendment Act no.104 of 1996 has made the position explicit that a Court of appeal or revision, may also direct return of the plaint after setting aside the decree passed in a suit, in the exercise of powers under the said Rule. In this connection, the provisions of Order VII Rule 10 CPC may be quoted:*

*"10. Return of plaint.--(1) Subject to the provisions of Rule 10-A, the plaint shall] at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted.*

*Explanation.--For the removal of doubts, it is hereby declared that a court of appeal or revision may direct, after setting aside the decree passed in a suit, the return of the plaint under this sub-rule.*

*(2) Procedure on returning plaint.--On returning a plaint the Judge shall endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reasons for returning it."*

*29. There is, thus, apparently no difficulty to conclude that at whatever stage of the suit, be it in appeal from the original decree, or in appeal from the appellate decree, or in revision at an interlocutory stage, wherever the Court in seisin of those proceedings finds that the suit is not cognizable by the Court, it can and must at once set aside the decree or order, and direct return of the plaint. This is most true in cases where any Court finds lack of jurisdiction with reference to subject matter of the suit. There could be some different principles in case of objection as to territorial or pecuniary jurisdiction, particularly, territorial, if it be not raised at the earliest stage, but with regard to subject matter of the suit if the Court at any stage of the proceeding, or a higher Court in appeal or revision finds that the suit is not cognizable by the Court which has determined it on merits, the determination of a Court sans jurisdiction must be nullified with an order for return of the plaint to the Court of competent jurisdiction*

*34. Echoing the same principle that where the Court does not find itself possessed of jurisdiction, the proper course is not to dismiss the suit, but to make an order for return of the plaint, a Division Bench of the Madras High Court in T. Krishnaveni Ammal vs. The Corporation of Madras, held:*

*"As observed by the learned Judges in Immandi Appalasami v. Rajah of Vizianagaram, 25 M.L.J. 50, the definition of rent in S. 3, Cl. 11 of the Madras Estates Land Act does not require that the raiyat in possession should actually use the land for the purpose of agriculture. We agree with the learned Judge on a reading of the plaint that the suit should be treated as one for recovery of rent due from ryoti land. The suit should have been filed in a revenue Court and not in a civil Court. As we have found that the civil Court has no jurisdiction to entertain the suit, the proper course is to direct the return of the plaint to the plaintiff for presentation in the proper Court. We allow the appeal, set aside the decree of dismissal passed by the learned Judge, and direct that the plaint be presented to the proper Court, namely, the revenue Court. There will be no order as to costs in this appeal. Costs of the suit will abide the result. The court fee paid on the memorandum of appeal will be refunded to the appellant."*

**3. In the first appeal No. 278 / 2024 Aase Ram v. Amit Kumar, Hon'ble High Court of Allahabad vide order and judgement dated 30.09.2024 held that as per section 6 of the Commercial Court Act, 2015 plaint can be returned under order VII, Rule 10 & 10A as in case of commercial disputes only jurisdiction vest in the commercial court to try commercial matters.**

The paragraph 12 & 15 of the judgment is quoted below:

*12) The suit for permanent injunction was filed by plaintiff/appellant restraining the defendant/respondent for operating the brick kiln against the terms and conditions of partnership agreement dated 25.8.2027. The sole basis of suit was partnership agreement dated 25.3.2017. The dispute between the parties was purely commercial dispute and in view of Section 6 of Commercial Courts Act, 1915, only Commercial Court has got jurisdiction to decide the dispute. Section 6 of Commercial Courts Act is reproduced herein below:-*

*6. Jurisdiction of Commercial Courts. – The Commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a Specified Value arising out of the entire territory of the State over which it has been vested territorial jurisdiction."*

*15) Learned trial court after considering the entire materials which are available on record has recorded categorical finding of fact that the basis of suit filed by plaintiff-appellant is a partnership agreement dated 25.8.2017 and the dispute between the parties are purely of commercial nature and only Commercial Court has got jurisdiction to decide the dispute between the parties. The trial court has rightly allowed the application filed by defendant-respondent under Order 7 Rule 11(d) and*

*returned the plaint under Order 7 Rule 10 C.P.C. The order dated 28.9.2023 passed by the trial court is based on materials which are available on record and there is no illegality in any manner.*

The Hon'ble Supreme Court in Civil Appeal No. 9481/ 2025 (Petition for Special Leave to Appeal (civil) No. 694 / 2025 has upheld the judgement of High Court Allahabad with certain modification in para 7 and 8 of the judgement.

Paragraph No. 7 and 8 are being quoted below:-

*7. If the Civil Court is of the view that the dispute being commercial in nature has to go before the Commercial Court then the plaint has to be returned under Order VII Rule 10 CPC. The entire plaint cannot be rejected under Order VII Rule 11 CPC. This is the only clarification which is required in the present appeal.*

*8. We dispose of this appeal with a direction that the plaint of Original Suit No.449/2023 shall be handed over to the appellant – herein – original plaintiff so as to present it before the Court of competent jurisdiction i.e. the Commercial Court.*

#### 4. Azhar Hasan Vs. Additional District Judge First, AIR 1998 SC 2960

In this case, the Hon'ble Supreme Court held that Revenue Authority has right to determine who is the actual occupant of the land. Civil Court has no jurisdiction to intervene in this matter and plaintiffs are required to approach Revenue Court. The Court granted the liberty to the plaintiff to approach the revenue court and directed to give them necessary time to compute the limitation in this matter.

The relevant portion of the said judgment is quoted below:

*2. On reading the plaint and on understanding the controversy, we get to the view that whether those persons who succeeded the recorded tenants, were rightly recorded as tenants or not, was a question determinable by the Revenue authorities. Besides that, the sale deed which has been questioned on the basis of fraud, was not executed by the plaintiffs but by others, and they were not parties thereto so as to allege the incidence of fraud. In these circumstances, we are of the view that the plaint was rightly returned to the plaintiffs. They are even now at liberty to approach the Revenue authorities and claim deduction of time spent in these proceedings, in computing limitation for the purpose of the suit. In this view of the matter, the appeal fails and is hereby dismissed. No costs.*

16- Since the plaintiff has tried to get relief from this civil court in relation to the dispute related to *Araji No.....* and area..... acre of land mentioned in the revenue record *Khatauni*, in which the sole jurisdiction lies with the Revenue Court, Tahsil under Section 206 read with schedule 2 and 3 of the U.P.

Revenue Act, 2006, and Section 9 of the Civil Procedure Code prohibits such cases from being tried in civil courts. Therefore, due to lack of jurisdiction of the Civil court, the above plaint is liable to be returned to the plaintiff under order VII, Rule 10 and 10A of the Civil Procedure Code for its institution and trial in the competent revenue court under section 116 and 117 of the U.P. Revenue Act, 2006, read with rules 107, 108 and 109 of the U.P. Revenue Rules, 2016.

Order VII, Rule 10 and 10A of Code of Civil Procedure is being quoted below:-

**Order 7 Rule 10. Return of plaint.** - (1) Subject to the provisions of rule 10-A, the plaint shall at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted.

**Explanation.** -For the removal of doubts, it is hereby declared that a Court of appeal or revision may direct, after setting aside the decree passed in a suit, the return of the plaint under this sub-rule.

**(2) Procedure on returning plaint.** - On returning a plaint, the Judge shall endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reasons for returning it.

**Order 7 Rule 10A. Power of Court to fix a date of appearance in the Court where plaint is to be filed after its return.** - (1) Where, in any suit, after the defendant has appeared, the Court is of opinion that the plaint should be returned, it shall, before doing, so, intimate its decision to the plaintiff.

**(2) Where an intimation is given to the plaintiff under sub-rule (1), the plaintiff may make an application to the Court-**

**(a) specifying the Court in which he proposes to present the plaint after its return,**

**(b) praying that the Court may fix a date for the appearance of the parties in the said Court, and**

**(c) requesting that the notice of the date so fixed may be given to him and to the defendant.**

**(3) Where an application is made by the plaintiff under sub-rule (2), the Court shall, before returning the plaint and notwithstanding that the order for return of plaint was made by it on the ground that it has no jurisdiction to try the suit,-**

**(a) fix a date for the appearance of the parties in the Court in which the plaint is proposed to be presented, and**

**(b) give to the plaintiff and to the defendant notice of such date for appearance.**

**(4) Where the notice of the date for appearance is given under sub-rule (3),-**

**(a) it shall not be necessary for the Court in which the plaint is presented after its return, to serve the defendant with a summons for appearance in the suit, unless that Court, for reasons to be recorded otherwise directs, and**

*(b) the said notice shall be deemed to be a summons for the appearance of the defendant in the Court in which the plaint is presented on the date so fixed by the Court by which the plaint was returned.*

*(5) Where the application made by the plaintiff under sub-rule (2) is allowed by the Court, the plaintiff shall not be entitled to appeal against the order returning the plaint.*

### Order

Therefore, on the basis of the above facts and circumstances and legal pronouncement, the Revenue Court has the jurisdiction in respect of the relief mentioned in the plaint regarding revenue record Khatauni of Gram Sabha....., Tahsil....., District..... . Accordingly, while returning this plaint to the plaintiff/plaintiffs, it is directed/ordered to the concerned Revenue Court OF Sub-Divisional Magistrate /Sub-Divisional Officer/ Assistant Collector, Tahsil..... District..... that if the plaintiff/plaintiffs institute/file the plaint/application in the Revenue Court as per the rules within one month from the date of this order, the plaint should be decided in the interest of justice in accordance with Revenue Law & Rules providing an opportunity of hearing to the defendant/opposite party.

Signature

District Judge / Additional District Judge

Court Of Civil Judge

(Senior Division / Junior Division)

District.....

Date.....