

**CHAPTER V**  
**COURT COMMISSION SURVEYS**  
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## CHAPTER V COURT COMMISSION SURVEYS

### Occasions of issuing court commission

- 5.1 Court commissions issued by the District courts to the Surveyor General as follows.
  - 5.1.1 Request from any party to a case relating to land in the district court or at the request of a party or by the Court of its own to submit survey reports.
  - 5.1.2 Whenever state lands are involved or suspected to be involved, Attorney General also will become a party to the case in order to safeguard the interest of the state. In such instances commissions may be issued by the Court to the Surveyor General on the request of the Attorney General.
    - 5.1.2.1 Accordance with Section 18 (3)(a) of the Partition Law No. 21 of 1977 (Chapter 82 of Legislative Enactment of Sri Lanka)
- 5.2 In addition, orders by the Court of Magistrate, the High Courts, the Court of Appeal and the Supreme Court could made to the Surveyor General to submit Surveys and reports on his own motion. However, the Court Commissions are not issuing and it is merely a court order.
- 5.3 Regarding the Court Commission Surveys mention in D.S.R.5.1, to verify & certify the accuracy of the plans and related field records of Registered Licensed Surveyors a new survey will be carried out to prepare a plan, field note and report related to them before the court acceptance, a fresh survey will be carried out to prepare a tracing, tenement list and a report regarding a survey conducted by two or more licensed surveyors, or surveys and report should be prepared on request for any party of the case related to lands, by the Court of Justice,.

Action for the request of the first survey issued by the court under the partition law, according to the court orders mention in D.S.R.5.2 the relevant surveys or reports should also be prepared.

### Survey charges

- 5.4 Immediately after receiving a court commission, before proceed for further action it should be checked that the commission has to be done free of charge or fees has to be charge by the respective parties. If a survey fee has to be charged action has to be taken to prepare estimate as per latest circular on survey fees.

Registrar of the court should be inform with survey fees, that to noticed relevant parties to pay survey fees and work will be commences only after survey fees received to District Survey Office, and should convey to the relevant parties.

Work should commence only after survey fees received.

But the fee for the above parties should be / not be informed when a Commission is issued under section 18 (3) (a) of the Partition act.

Where the commission has been issued at the instance of the Attorney General, no survey fees are charged.

### **Special points of implementation of court commission**

- 5.5 Court Commission Surveys should always be carried out strictly in accordance with the requirements of the commission.
- 5.6 Commissions received from courts to the Surveyor General will be directed to the respective District Senior Superintendent of Surveys by Document Management and Professional Standards Branch of S.G.O. In most cases, Court Commissions are sent to the Senior Superintendent of Surveys directly in the District by court.
- 5.7 District Senior Superintendent of Surveys should give high priority for the completion of these surveys, and are expected to follow the progress of each commission until such time that they are completed. The completed survey request should be sent to the court a week prior to the date given in the court commission.
- 5.8 It will be always advisable to be engaged a senior or experienced surveyors on these surveys. In the absence of a senior surveyor in the survey party, a new Surveyor may be engaged in a court commission surveying and in such cases the supervising officer should closely monitor the duties relevant to the survey until the work will be completed.
- 5.9 An estimate for completion of work should be made by the surveyor and forwarded to the District Senior Superintendent of Surveys through the Superintendent of Surveys. District Senior Superintendent of Surveys should find that the estimated date for completion is well within the date given in the commission and monitor the duties take necessary action.

### Notice of Survey work

- 5.10 The Surveyor should give notice of survey to all parties and the Grama Niladari for state lands at least two weeks before the survey.

### Field work

- 5.11 Boundaries pointed out by parties mentioned in the commission should be surveyed. According to the commission, there will be occasions to point out the boundaries again to the parties when the newly formed boundaries exists after fixation. In such cases, all the boundaries has to be staked out using wooden pickets and shown to all the parties mentioned in the commission and in case of state land boundaries stake out should be shown to Grama Niladhari. But land marking will not be done.
- 5.12 Field work should be done pertaining its accuracy as Plan work should be done on the scale of the original. (Plan presented with court commission)
- 5.13 Numbered Field Books should be used for fieldwork.

### Preparation of fixation tracing

- 5.14 In instances where the original plans are sent with the commission, they should be used to prepare tracings.

Else the surveyor should obtained the original documents personally from the courts to prepare fixation tracings of plans referred in the commission. Such tracings should be certified by the Surveyor treating them as true copies. Surveyor should make a note as “I certified this tracing prepared by me personally from the originals” and signed in the tracing as then Superintendent of Surveys also should be counter singed on it.

- 5.15 All fixations should precise, and discrepancies to be reported in detail. In fixation tracings, the data used for fixation should be ticked off (✓) and fixation classified. Both the Surveyor and the Superintendent of Surveys should certify the fixation tracings.

### Plan work

- 5.16 All State land falling within the corpus of a Licensed Surveyor's plan should be surveyed and lotted separately.

- 5.17 Plan work should be done on the scale of the original. However a larger scale may be used to illustrate the differences. If necessary such work may be shown as insets.
- 5.18 Lotting will be done alphabetically and all lots formed after superimpositions will be lotted and scheduled according to the requirements of the commission. When using English characters, should not use I, L, and O letters to prevent the unclearness of the tracing. It should not be used same lot numbers which were used by Registered Licensed Surveyors.
- 5.19 Plan work should be done on A3 Sheet, and should be inked using colours as mentioned below. Each Licensed Surveyor's work should be shown in a different colour, and boundaries transferred from departmental plans in red. Newly surveyed boundaries, if any, will be shown in black where they do not coincide with boundaries already shown. The colours used should be indicated clearly by legend, which will explain the order in which the colours have been used. No of copies of tracing which included only necessary data extracted from the prepared drawing sheet should be printed.
- 5.20 A schedule of lots to be prepared by the Surveyor will indicate the lot number, land extent, name of land, descriptions inclusive of cultivations with number of trees and their ages, detailed descriptions of buildings, names of claimants with their addresses, extents and leases, reservations and encroachments etc. Include reference to Licensed Surveyor's plan lots, state plan lots in the Old lot reference column.

### **Preparation of Survey Report**

- 5.21 Surveyor should also prepare a printed detail report giving the salient points of interest to court. It should not include credible credentials on surveys. Never report uncertainty things in the surveyor's report.

**Refer to [Appendix 5.1](#) for details in preparing of tracing, land tenement list and report of court commission surveys.**

Report for partition cases to be prepared according to the given specimen ([Appendix 5.2](#)) under section 18.1 (a) of the partition act.

### **Plan Checking**

- 5.22 All required numbers of original copies of completed plans, Schedule of lots, report and connected documents should be signed by the Surveyor giving his name and designation. The Superintendent of Surveys will examine the work on his satisfaction of accuracy and completeness of the work, after examination and forward to the District Senior Superintendent of Surveys with digital data and all other completed connected

documents. Amendments given by the Senior Superintendent of Surveys should be completed and returned promptly.

### **Certification of plans and issuing copies**

- 5.23 The Superintendent of Surveys and Senior Superintendent of Surveys should ascertain whether the report which was prepared by the Surveyor accordance DSR chapter 5.5 fulfill the requirement of the court correctly.

The surveyors' report for the court, 2 copies of tracing /plans which was prepared using standard colour accordance 5.19 on A3 size department printed paper and schedule of land parcels should be signed by the Senior Superintendent of Surveys on behalf of Surveyor General.

- 5.24 Senior Superintendent of Surveys should prepare a separate comprehensive report including special points important for the court basis on the Surveyors' report and tracing/ plan copies and tenement lists with surveyor's report (as an Appendix 5.2) should be sent to the court.

When the Attorney-General is a party to the case, a copy of the report with extra tracing/plan and tenement list which was submitted to the court should be submitted by the Senior Superintendent of Surveys to the Attorney-General.

### **Protecting documents**

- 5.25 The original A3 size tracing and the file of papers of the requisition to be kept systematically in a safe place at the record room of District Survey Office. These papers will be needed for giving evidences in courts or to brief the State Counselor of the Attorney General's Department when request made.

- 5.26 All documents relating to court commission surveys are not released directly to the public. When request a copy of the report by a party concerned or any applicant of the case, only issued on prescribed payment according to a letter issued by the Registrar of the Court.

Since the "Right to information Act" is in operation, all parties involved in this case are entitled to apply for these copies and only issued on prescribed payment according to a letter issued by the Registrar of the Court.

### **Dealing Correspondence**

- 5.27 All the correspondence with court of Justice to be dealt through the Registrar of the Court.

5.28 It is the responsibility of the District Senior Superintendent of Surveys to get the work completed in time and submits the plan, schedule and the report to court before the date given in the commission. In case of the, work is getting delayed due to unavoidable and justifiable reasons, the District Senior Superintendent of Surveys should write to the Registrar of the court, well before the due date given in the commission, and get an extension. Do not obtain such extensions continuously.



## Appendix 5.1

### **Things to be Careful for preparing of Tracings related to the Court Commission Surveys.**

1. Show the northern line and scale.
2. Specify Province, District, Divisional Secretary's division and the village correctly.
3. Specify tracing number, case number and the name of the court correctly.
4. Describe the field book numbers correctly.
5. All information in the tracing to be described in the legend.
6. Information about boundaries point out & pointed out by.
7. Select colours for superimposed boundaries and specify under the relevant explanatory note.
8. When superimposed boundaries cannot be distinguished describe in an inset.
9. Explain the adjoining boundaries correctly.
10. Describe period of the Surveys correctly.
11. Describe details about surveyed & drawn, checked and passed correctly.

### **Things to be Careful for preparing of Tenement list related to the Court Commission Surveys.**

1. Specify Province, District, Divisional Secretary's division and the village same as shown in the tracing.
2. Specify the tracing number, case number and the name of the court same as shown in the tracing.
3. Describe the field numbers same as shown in the tracing.
4. Information about boundaries those were pointed out same as shown in the tracing.
5. When the extent shown as Acres, Roods and Perches, consider 1Ha=2.4711 A
6. Name of the applicant and remarks column to be described correctly.
7. Describe details about period of surveying, surveyed & drawn, checked and passed same as shown in the tracing correctly.

**Things to be Careful in preparing of Report related to the Court Commission Surveys.**

1. Prepare correct report according to type of surveys.
2. All information of the surveys to be included in the report under the each paragraph.
3. Lots of plans of Registered Licensed Surveyors to be balanced and shows in a chart.
4. It should not include credible credentials on surveys. Never report uncertainty things.
5. If it is in contradiction with or a specific description, it should be noted under special note.
6. Describe about fulfil of the court commission, information about report prepared, checked, and passed accurately.
7. All related documents were attached to the report to be numbered and described in the back side of the file.
8. The field book should be completed and the relevant notes and certificates should be indicated there.
9. Digital data of amended tracing and tenement list of report should be submitted with report.

**FORMS OF SURVEYOR’S REPORT**

**Section 18 (1) (a) of the Partition Act**

In the District Court of .....

Action no.....

.....Plaintiff

Vs.

.....Defendants.

Preliminary Plan No .....dated.....

- (i) Date fixed for commencement of survey:
- (ii) (a) Date of Issue of notice of survey to parties:  
(b) Date of oral proclamation of survey:
- (iii) Date of survey:
- (iv) Nature of land surveyed with details of buildings, walls, fences, wells, trees, plantations and other improvements thereof:
- (v) Whether or not the land surveyed is substantially the same as the land sought to be partitioned as described in the schedule to the plaint:
- (vi) Parties present:
- (vii) Person who pointed out the land to be surveyed:
- (viii) Claimants, other than parties, their addresses and nature of claims:
- (ix) Result of investigation of any particular fact or matter specifically referred to in the commission:
- (x) Existing means of access to the land from the nearest public road:
- (xi) Facts, matters and circumstances relating to the survey or to the land surveyed, which may be necessary for, or prove of assistance in, the adjudication of the partition action.

I,.....do hereby solemnly, sincerely, and truly declare and affirm/do make oath and state as follows:-

1. I am in the Commission appointed in the above case.
2. I duly executed the Commission issued to me in the above action in accordance with the directions given therein, and to the best of my knowledge, information and belief the foregoing particulars and my Plan No.....dated.....and the certified copy of my field notes are true and accurate

Signed.....  
Commissioner .

Affirmed to/sworn to at .....on this.....day of .....20.....

Before me .

Signed.....  
Justice of the Peace /Commissioner for oaths.

## Correction Slip

## Correction Slip