

None No. 324560:

No. 54-84/1507 -ST.I.,  
Board of Revenue, Punjab,  
Lahore dated the 24 July, 1984.

From

The Secretary (Settlements),  
Board of Revenue, Punjab.

To

All Deputy Commissioners in the Punjab.

Subject: Attestation of affidavits and other documents.

MR. M. BOOL AHMAD SHEIKH MEMBER (REVENUE) BOARD OF REVENUE/SECRETARY  
TO GOVERNMENT PUNJAB, REVENUE DEPARTMENT.

MEMORANDUM.

There has been a controversy about attestation of affidavits by Oath Commissioners and Notaries Public. Oath Commissioners are appointed by the High Court under section 139 (b) of C.P.C and section 539 of Cr.P.C. The object of appointing Oath Commissioner is to attest affidavits to be produced before a court to prove any particular fact or facts. According to rule 3 of Order XIX of C.P.C., such affidavits shall be confined to such facts as deponent is able of his own knowledge to prove.

2. Notaries Public are appointed under the West Pakistan Notaries Rules, 1965. The functions to be performed by Notaries Public are mentioned in section 8 of the Notaries Ordinance, 1961 which include inter alia to administer oath to or to take affidavit from any person in relation to the matter enumerated in that section. Clause (e) ibid envisages that a Notary Public can attest an affidavit which relates to the matter connected with commercial and mercantile documents under the Negotiable Instruments Act, 1881.

3. The Home Department, Government of the Punjab, in its circular letter No. 5/9-HJudicial (II)/62. dated 18th January,

(2)

1963 clarified that<sup>a</sup> Notary Public is not competent to attest affidavits to be used or produced before any officer or court, including a Passport Officer, and the Settlement Department, It further elaborated in circular letter No.5/9-H-Judl:(II)/62. dated 26-11-1966 that Notary Public can only administer oath or attest an affidavit in respect of the verification or authentication, certification, attestation or the execution of any instrument, promissory notes, Hundi or Bill of Exchange and to note the acceptance, non acceptance or non payment of any of these instruments.

4. Thus it becomes clear that an Oath Commissioner can attest affidavits to be produced in courts in judicial proceedings and to other officers. There is obviously no bar in the law that Oath Commissioner cannot attest affidavits which are not to be produced before the court of law. Rather a Notary Public is restricted to attest affidavits relating to matters enumerated in section 8 of the Notaries Ordinance, 1961. Wherehowever, a Notary Public attests any affidavit or certifies any instrument and makes any endorsement or note on an instrument in the execution of duties of his office, stamp duty of Rs.4/- in the form of Notarial stamp in each case has to be affixed thereto under Article 42 of Schedule I to the Stamp Act.

The above position may be brought to the notice of all offices under your control for guidance and compliance.

Secretary (Settlements),  
Board of Revenue, Punjab.

No.54-84/1528 -ST.I.,

A copy is forwarded to all Commissioner of Divisions in the Punjab, for information and necessary action.

Secretary (Settlements),  
Board of Revenue, Punjab.