

ORISSA SURVEY AND SETTLEMENT ACT, 1958
(Act 3 of 1959)

(Assented to by the Governor on the 12th January, 1959)

**AN ACT TO CONSOLIDATE AND AMEND THE LAWS RELATING TO SURVEY, RECORD-OF-RIGHTS AND
SETTLEMENT OPERATIONS IN THE STATE OF ORISSA**

Whereas it is expedient to consolidate and amend the laws relating to survey, record-of-rights and settlement operations in the State of Orissa.

It is hereby enacted by the Legislature of the State of Orissa in the Ninth Year of Republic of India as follows:

CHAPTER-I
PRELIMINARY

- (1) Short title, extent and commencement-This Act may be called the Orissa Survey and Settlement Act, 1958.
(2) It extends to the whole of the State of Orissa.
(3) This section shall come into force at once. The State Government may, by notification in the Official Gazette, direct that all or any of the remaining provisions of this Act shall come into force in such area and on such date as may be specified in the notification.

NOTES: The Act is one to consolidate and amend the laws relating to survey, record-of-rights and settlement in the State of Orissa. It is in six chapters. Chapter-I deals with preliminary, Chapter-II with Survey, Chapter-III with record-of-rights, Chapter-IV with settlement of rent, Chapter-V with jurisdiction and procedure and Chapter-VI with the miscellaneous.

1. O. Exty. No. 32-D/27-1-1959, Notfn. No. 692 Legis. Dt. 24-1-1955.
2. Definitions

In this Act, unless there is anything repugnant in the subject or context-

(1) "Agricultural year" means the year as specified in the Tenancy Laws in force or in the absence of any such laws, as may be prescribed by the Government in respect of different districts or localities according to local custom or usage;

1[(2) "Assistant Settlement Officer" means any officer appointed as such by the Board of Revenue ;]

1[(3) "Chief Survey Officer" means any officer appointed as such by Government and includes an Additional Chief Survey Officer appointed by Government ;]

(4)

"Government" means the State Government of Orissa;

(5)

"Landlord" means a persons immediately under whom1[a tenant holds land] and includes the Government;

(6)

"Prescribed" means prescribed by rules made under this Act;

1[(7)

"Record-of-rights" means the record-of-rights prepared" under this Act

(8)

"Rent" means whatever is lawfully payable or deliverable in cash or in kind or partly in cash and partly in kind by a tenant to his landlord on account of the use or occupation of the land held by him. It shall also include money recoverable under any enactment for the time being in force as if it were rent;

(9)

"Revenue Court" means any Court (other than Civil Court) having jurisdiction under this Act to entertain suits or other proceedings;

1[(10)

"Settlement Officer" means any Officer appointed as such by Government and includes an Additional Settlement Officer appointed by Government ;]

(11)

"Survey" includes all or any of the operations incidental to the determination, measurement and record or a boundary or boundaries or any part of a boundary and includes re-survey;

(12)

"Survey mark" means any mark or object erected, made, employed or specified a by a Survey Officer to indicate or determine or assist in determining the position or level of any point or points;

(13)

"Survey Officer" means any person appointed to be a Survey Officer under Section 4 ;

1[(13-a)

"Tenant" means a person who holds land under another person and is or, but for a special contract would be liable to pay rent for that land to that person ;]

1[(14) "Village" means any tract of land which has been recognized as a village in the revenue records or which the Board of Revenue may, from time to time, declare to be a village ;]

(15) ♦♦Words and expressions used in this Act but not defined shall have the same meaning as assigned to them in the Tenancy Act or Laws, Rules, Regulations, custom or usage in force in any part of the State of Orissa.

1.

Substituted by Orissa Act 7 of 1962.

CHAPTER-II SURVEY

3.

Power to order a survey

1[(1)

The Government or subject to their control any Officer or Authority empowered by Government may, at any time, by notification, order a survey to be made of any land if the State or the boundary thereof.]

(2)

The Government shall be competent at any time during the continuance of the proceedings of any survey to issue an order to stop such survey and, if subsequently so ordered, such proceeding shall be proceeded with from such stage as may be directed.

(3)

The Government may also issue a notification ordering a survey:

(a)

on the request of

(i)

any local authority; or

(ii)

other persons;

who agree to pay such amount as may be directed by the Government towards the cost of survey; or

(b)

where in any local area not less than one-half of the total number of raiyats apply for the survey, depositing or giving security for such amount towards the payment of expenses as the Government may direct.

1.

Substituted by Act No.7 of 1962.

4.

Appointment of Survey Officer, delegation of powers and manner of survey

(1)

The 1[Board of Revenue,] may, by notification appoint any 1[xxxxxxx] officer or person either by name or by virtue of his office to be a Survey Officer for all or any of the purposes of this Act.

(2)

Subject to the control of the 2[Board of Revenue] 1[xxxx] every officer or person so appointed shall exercise and perform the powers and duties of a Survey Officer within such local limits as the 2[Board of Revenue] may direct.

(3)

1[xxxx]

(4)

The survey shall be conducted in such manner as may be prescribed by the Government.

5.

Proclamation to be published by Survey Officers

(1)

When any survey is ordered under Section 3, the Survey Officer shall publish a proclamation in the prescribed manner inviting all persons having interest in the land or in the boundaries of which the survey has been ordered, to attend either in person or by agent at a specified place and from time to time thereafter, when called upon for the purpose of pointing out boundaries and supplying information in connection therewith.

(2)

Such proclamation to be valid notice to person interested-A proclamation published under Sub-section (1) shall be held to be a valid notice to every person having any interest in the land, or in the boundaries of which the survey has been ordered.

6.

Survey Officer may enter upon land, offer compensation for damages and may settle boundary disputes

(1)

After the issue of the proclamation under Sub-section (1) of Section 5, the Survey Officer or his subordinates or any other officer acting under the authority of the Survey Officer shall have power to enter upon the land under survey, examine and measure such land and clear by cutting down or removing any trees, jungle, fences, standing crops or other material obstructions to the boundaries or other lines, the clearance of which may be necessary for the purposes of the survey.

(2)

Compensation

The Survey Officer shall, after assessing the occasioned by any clearance as is mentioned in Sub-section(1) , offer reasonable compensation to the owners of the materials so cleared.

1[(3)

Powers of Survey Officer to determine and record disputed boundary-

Any person aggrieved by a decision under Sub-section (2) may, within thirty days from the date of such decision, prefer an appeal to the prescribed authority.]

1.

Omitted by Act No.7 of 1962.

2.

Substituted ibid.

2[6-A.

Preparation and preliminary publication of draft survey record

(1)

The Survey Officer shall prepare a draft survey record which shall comprise

(a)

the map drawn to such scale as may be convenient in the opinion of the Survey Officer; and

(b)

such other records as the Board of Revenue may, by order specify in that behalf.

(2)

When a draft survey record has been prepared, the Survey Officer shall publish the same in the prescribed manner and for the prescribed period and shall receive and consider any objections which may be made to any entry therein or to any omission there from during the period of publication.]

3[6-B.

Appeal

An appeal, if, presented within thirty days from the date of the order appealed against, shall lie to the Chief Survey Officer from every order passed by the Survey Officer on any objection made under Section 6-A.]

2[6-C.

Final publication of survey record

(1)

When all such objections and appeals, if any, have been disposed of, the Survey Officer shall finally frame the survey record incorporating all such alterations as may be necessary to give effect to the orders passed on such objections and appeals and shall cause it to be finally published in the prescribed manner, and the publication shall be conclusive evidence that the record has been duly made under this Chapter.]

(2)

Separate drafts and final records may be published for different local areas or parts thereof.

1.

Substituted by Act No.7 of 1962.

2.

Inserted *ibid*.

1[6-D

Revision by Board of Revenue

The Board of Revenue may, in any case

(a)

of its own motion, at any time after the date of final publication under Section 6-C ; or

(b)

or application made within one year from the said date, direct the revision of any survey record or any portion thereof but not so as to affect any order passed by a Civil Court under Section 42 :]

Provided that no such direction shall be made until reasonable opportunity has been given to the parties concerned to appear and be heard in the matter.]

1[7.

Final publication of survey record to be notified

After a survey record has been finally published, the Board of Revenue shall, by notification, declare that such record has been finally published, and such notification shall be conclusive proof of such publication.]

8.

Persons responsible for the maintenance of survey marks

(1)

Subject to such conditions as may be prescribed in this behalf, every person interested in the land shall be bound to maintain, renew and repair the survey marks on or within the boundaries of his holding and in default of his doing so, the Collector may, at the cost of the Government maintain, renew and repair such survey marks, determine and apportion the cost of so doing, and recover such costs as a public demand or arrear of land revenue, as the case may be.

(2)

Before the Collector renews or repairs any survey marks, he shall serve a notice in writing on the cultivator or other person interested in the prescribed manner intimating him the action proposed to be taken by him specifying the time fixed for such action.

9.

Recovery of cost of survey

(1)

The whole or such portion of the costs as may be ordered in respect of survey made on the application of parties under Sub-section (3) of Section 3 shall be borne by , them:

Provided that where the application is made under Clause (b) of the said sub-section, the amount recoverable under this section shall be recovered from all the raiyats of the local area including the applicants.

(2)

The Government may prescribe the manner in which such costs shall be assessed. The costs so assessed shall be 1(recoverable as arrears of land revenue].

1.
Inserted by Act No.7 of 1962
2.
Substituted by Act No.6 of 1981
10.
2[x x x]

CHAPTER-III RECORD-OF-RIGHTS

11.
Power of Government to order preparations of record-of-rights
3[(1)
The Government may in any case if they think fit, make an order directing that a record-of-rights be prepared in respect of lands in any local area in the State.)
(2)
The Government may also make an order under the preceding sub-section;
(a)
on the request of -
(i)
any local authority, or
(ii)
other persons,
who agree to pay such amount as may be directed by the Government towards the cost of preparation of the record-of-rights ; or
(b)
on the request of not less than one half of the total number of raiyats having land in the village and on their depositing such amount for payment of expenses as the Government may direct.
(3)
A notification in the Gazette of an order under this section shall be conclusive evidence that the order has been duly made, 2[x x x].
3[(4)
When an order is made under Sub-section (1) the Assistant Settlement Officer shall proceed to prepare the record-of-rights in the prescribed manner".
3[(5)
The record-of-rights shall be comprised of
1[(6)
For the purpose of preparation
(a)
the khewat which shall show the character and extent of proprietary interests and may also show the particulars of other rent receiving interests; and
(b)
the khatian which shall show such details as may be prescribed.]
of record-of-rights in respect of any local area, there shall be prepared in the prescribed manner a map showing, as far as may be, all such particulars as may be considered necessary for the purpose and the record-of-rights so prepared shall be in conformity with the map:
Provided that in the event of any conflict between prepared and the survey map previously prepared under the provisions of Chapter-II, the former shall prevail:]
1.
Substituted by Act No.7 of 1962.
2.
Omitted *ibid.*
3.
Re-numbered *ibid*
12.
1(Preliminary publication of draft record-of-rights and hearing of objections

When a draft record-of-rights has been prepared, the Assistant Settlement Officer shall publish the same in the prescribed manner and for the prescribed period and shall receive and consider any objections which may be made to any entry therein or any omission therefrom during the period of publication.]
1.
Substituted by Act No.7 of 1962.
1[12-A
Appeal

An appeal, if presented within thirty days from the date of the order appealed against, shall lie from every order passed by the Assistant Settlement Officer under Section 12 to the Settlement Officer or to any other officer especially empowered by the Government in this behalf.]
2[12.B
Final publication of record-of-rights
(1)

When all such objections and appeals are disposed of, the Assistant Settlement Officer shall finally frame the record-of-rights incorporating all such alterations as may be necessary to give effect to the orders passed on such objections and appeals and shall cause it to be finally published in the prescribed manner and such publication shall be conclusive evidence that the record has been duly made under this Chapter.

(2)

Separate drafts and final records may be published for different local areas or parts thereof.]

1.

Substituted by Act 7 of 1962.

2.

Inserted *ibid.*

13.

Presumption as to final publication and correction of record of-rights

1[(1)

Any record-of-rights prepared and finally published under this Chapter or a certified copy thereof or extract there from shall be conclusive evidence of such publication.

(2)

The Government may by notification declare with regard to land in any local area or village that record-of-rights has been finally published and such notification shall be conclusive evidence of such publication.]

(3)

Every entry in a record-of-rights so published shall be evidence of the matter referred to in such entry and shall be presumed to be correct until it is proved by evidence to be incorrect:

Provided that, if any entry in a record-of-rights is altered in a subsequent record-of-rights, the later entry shall be presumed to be correct until it is proved by evidence to be incorrect, but the previous entry shall be admissible as evidence of the facts existing at the time such entry was made.

1.

Substituted by Act No.7 of 1962.

14.

1[xxxx]

15.

Revision by Board of Revenue

The Board of Revenue may in any case direct

(a)

of its own motion the revision of any record-of-rights, or any portion of a record-of-rights, at any time after the date of final publication under 2[Section 12-B] but not so to affect any order passed by a Civil Court under Section 2[42] ;

3[(b)

on application made within one year from the date of final publication under Section 12-B the revision of record-of-rights or any portion thereof whether within the said period of one year or thereafter but not so as to affect any order passed by a Civil Court under Section 42 :]

Provided that no such direction shall be made until reasonable opportunity has been given to the parties concerned to appear and be heard in the matter.

1.

Omitted by Act No.7 of 1962.

2.

Substituted *ibid.*

3.

Substituted by Act No.6 of 1981.

1(16.

Maintenance of records

In order to keep the map and the record of rights up- to- date same shall be maintained in accordance with such rules as may be prescribed in that behalf.]

1.

Substituted by Act No.9 of 1965.

17.

Recovery of cost of preparation of record-of-rights

(1) The cost of operation of record-of-rights on an application made under Sub-section (2) of Section 11 or such portion thereof may be ordered shall be borne by the applicant:

Provided that where the application is made under Clause (b) of the said sub-section, the amount recoverable under this section shall be recovered from all the raiyats of the village including the applicants.

(2)

The Government may prescribe the manner in which such cost shall be assessed. The cost assessed shall be irrecoverable as arrears of land revenue.]

CHAPTER-IV SETTLEMENT OF RENT

18.

Settlement of rent

(1)

The Government may at any time direct 1[the settlement of] rent in respect of land situated in any village or local area for which a record-of-rights has already been finally published.

(2)

The Government may also issue a direction under the preceding sub-section

(a)

on the request of

(i)

any local authority; or

(ii)

other persons;

who agree to pay such amount as may be directed by the Government towards the cost of the settlement of rent; or

(b)

on the request of not less than one-half of the total number of raiyats having land in any local area on their depositing such amount for payment of expenses as the Government may direct.

(3)

All amounts payable under Clause (a) of Sub-section (2) shall be 1[recoverable as arrears of land revenue.]

1.

Substituted by Act No.7 of 1962

19.

Principles for fixing rent

2[(1)

The Government may prescribe the principles for fixing fair and equitable rent for any land used for agriculture having regard to

(a)

the average price of crops, during the preceding ten years other than the years which the Government may notify to be or to have been either famine years or abnormal years in respect of any local area;

(b)

the crop or crops normally grown on such land;

(c)

the situation of the land and the nature of the soil; and

(d)

the maximum rent assessed on land of similar quality and productivity elsewhere in the State.)

Explanation-For the purpose of this sub-section

(a)

"agriculture" includes raising of crops, grass or garden produce, horticulture or use of land as pasture or forest or for any other purpose ancillary to agriculture other than residential purpose;

(b)

the cultivable waste land of a tenant shall be deemed to be land used for agriculture; and

(c)

the crop or crops, which could have been grown in any land referred to in the preceding clause or in any land which is used for any purpose ancillary to agriculture shall be deemed to be the crop or crops normally grown on such land.

(2)

The Government may prescribe the principle for fixing fair and equitable rent for lands used for any purpose other than agriculture including all kinds of homestead lands in urban and rural areas of the State, having regard to

(a)

the situation of the land;

(b)

purpose for which it is used;

(c)

communication and marketing facilities; and .

(d)

market value of the land.

(3)

The rent so fixed shall be deemed to be the rent payable, for the land:

Provided that Government may subject to such conditions as they may impose, direct remission or reduction of the fair and equitable rent so fixed in respect of any land which is owned by any religious or charitable institution of a public nature and is utilised for the promotion of education, health, culture, fine arts, sports or games for social welfare.

(4)

The provisions of this section shall have effect, notwithstanding anything contained in any law, custom or contract for the time being in force.

1.

Substituted by Act No.7 of 1962.

2.

Substituted by Act No. 51 of 1975.

20.

1[Manner of fixation of rent

When an order is made under Section 18, the Assistant Settlement Officer shall fix the fair and equitable rent in the prescribed manner.]

21.

Preliminary publication and amendment of Settlement- Rent Roll

1[(1)

When rent has been fixed, the Assistant Settlement Officer shall prepare a Settlement Rent Roll containing such particulars as may be prescribed and shall cause the same to be published in the prescribed manner and for the prescribed period and shall receive and consider any objections which may be made to any entry therein or omission therefrom during the period of publication.

(2)

The Assistant Settlement Officer may, of his own or on the application of any party aggrieved, at any time before a settlement roll is submitted to the Settlement Officer under Section 22, revise the rent entered therein:

Provided that no such revision shall be made until reasonable opportunity has been given to the parties concerned to appear and be heard in the matter.

22.

1[Sanction of Settled rent and modification of orders passed on objections

(1)

When all such objections have been disposed of, the Assistant Settlement Officer shall submit the Settlement Rent Roll to the Settlement Officer with full statements on the grounds of his proposals of his proposals and a summary of the objections, if any, received by him:

(2)

The Settlement Officer shall

(a)

of his own motion ;.or

(b)

on application within thirty days from the order passed on an objection preferred under Sub-section (1) of Section 21, have power to modify any such order.

(3)

The Settlement Officer may sanction the said Roll with or without amendment or may return the same for revision by the Assistant Settlement Officer.

(4)

No modification or amendment or revision shall be made under Sub-section (2) or, as the case may be, Sub-section (3) until reasonable opportunity has been given to the parties concerned to appear and be heard in the matter.

1[23.

Incorporation of settled rent in the record-of-rights and final publication thereto

(1)

After sanction of the Settlement Rent Roll, the Assistant Settlement Officer shall incorporate the settled rent in the record-of-rights, make such amendments or alterations in the said record and the map, if any, and shall cause a fresh copy of the record-of-rights to be finally published in the prescribed manner.

(2)

Such publication shall be conclusive evidence that the rent has been duly settled under this Chapter and the record-of-rights so published shall be deemed to be the record-of-rights published under Section 12-B.]

24.

2[x x x]

25.

Revision by the Board of Revenue

The Board of Revenue may, in any case

(a)

of its own motion, at any time after the date of final publication under 3[Section 23] ; or

(b)

on application made within one year from the said date] direct the revision of the rent so settled, but not so as to affect any order passed by a Civil Court under Section 42: ,

Provided that no such direction shall be made until reasonable opportunity has been given to the parties concerned to appear and be heard in the matter.

1.
Substituted by Act No.7 of 1962.
2.
Omitted *ibid*.
3.
Inserted *ibid*.
4.
Substituted by Act No.6 of 1981
26.
1[xxx]
27.
Presumption as to correctness of rent settled

Subject to the provisions of Sections 2[25 and 42] ; all rents settled under Sections [20, 21 and 22] and incorporated in a record-of-rights finally 1[published under Section 23] shall be deemed to have been correctly settled and to be fair and equitable rent within the meaning of this Act.

28.
Date from which settled rent takes effect

When any rent is settled 1[x x x] under this Chapter it shall take effect from the beginning of the agricultural year next after the date of sanction 1[x x x] under 4[Sub-section (3)] of Section 22:
Provided that the Government may prescribe an earlier date from which such settlement shall take effect and that such date shall not be earlier than the date of notification under Section 18.

1.
Substituted by Act No.7 of 1962.
2.
Omitted *ibid*.
3.
Inserted *ibid*.
4.
Substituted by Act No.6 of 1981.

CHAPTER-V JURISDICTION AND PROCEDURE

29.
1[Jurisdiction of Courts
(1)

All authorities hearing an application, appeal or revision under any of the provisions of this Act shall do so as Revenue Courts

(2)
Save as otherwise provided in this Act when an order has been made under Sections 3, 11, 18 or 36 no Court shall entertain any application or suit in respect of any matter for determining or deciding which provisions made in the Act and all proceedings in respect of any such matter pending on the date, such order is made shall be stayed till the final publication of records under Sections 6-C, 12-B or 23 as the case may be.]

- (3)
2[x x x]
- 30.

Application of Code of Civil Procedure, 1908 to proceedings under this Act-

The Government may from time to time make rules consistent with this Act declaring that any provisions of the Code of Civil Procedure, 1908, shall not apply to applications, appeals or other proceedings under this Act in any Revenue Court or to any specified classes of such applications, appeals or shall apply to them subject to modification and additions specified in the rules.

31.
Power of collector and Board of Revenue to dispute work
(1)

The 1[Settlement Officer] may by written order, dispute in such manner as appears to him fit any business cognizable under this Act by any 3Assistant Settlement Officer] and by like order he may withdraw any case pending before such 3[Officer] and either dispose of the same himself or by written order refer it for disposal to any other 3[Assistant Settlement Officer].

1[(2)
The aforesaid powers shall, in relation to all business cognisable under this Act, be exercisable by

- (a)
the District Collector and the Chief Survey Officer in respect of officers subordinate to them; and
- (b)
the Board of Revenue in respect of Settlement Officers, Chief Survey Officers and District Collectors.]

- 1.

Substituted by Act No.7 of 1962

2.

Omitted *ibid*.

3.

Substituted by Act No.6 of 1981

32.

Power to call for and revise proceedings of Revenue Officers

The Board of Revenue may call for the record of any Proceeding 1[any Officer] from whose decision no appeal lies if such Officer appears to have exercised a jurisdiction not vested in him by law or to have failed to exercise a jurisdiction so vested or while acting in the exercise of his jurisdiction to have contravened some express provision of law affecting the decision on the merits where such contravention has produced a serious miscarriage of justice and the Board of Revenue after hearing the parties if they attend, shall pass such order as it deems fit.

1.

Substituted by Act No.7 of 1962.

33.

Delegation of powers

The Government may by notification, delegate the powers of the Board of Revenue to an Officer not below the rank of Revenue Divisional Commissioner.

34.

Limitation of applications

Subject to the provisions of the next following section, every appeal presented and application made after the period of limitation specified therefor shall be dismissed although limitation has not been set up as a defence

35.

Application of the Indian Limitation Act, 1908

Subject to the provisions of this Act, the provisions of the Indian Limitation Act 9 of 1908, except Sections 6,7,8,9,19 and 20 shall apply to all appeals and applications mentioned in Section 34.

CHAPTER-VI MISCELLANEOUS

36.

Simultaneous proceeding

1[(1)

Notwithstanding anything contained in Chapters II, III and IV the Government may take an order directing that proceedings relating to

(a)

survey and preparation of record-of-right ;

(b)

preparation of record-of-rights and settlement of rent; or

(c)

survey, preparation of record-of-rights and settlement of rent, shall with respect to any local area, be carried on simultaneously and upon such order being made, the provisions of this Act shall apply to such proceeding with such modifications, as may be prescribed.

(2)

Where simultaneous proceedings have been ordered under Clause (a) or (c) of the preceding sub-section, the Assistant Settlement Officer and the Settlement Officer shall respectively exercise all the powers of Survey Officer and Chief Survey Officer.]

37.

Demarcation of village boundaries

1[(1)

In the demarcation of village boundaries for the purpose of making a survey and preparing a record-of-rights under this Act, the area contained within the exterior boundaries of the village shall, as far as possible, be preserved as the unit of survey any record and no other area shall be adopted as such unit without the sanction of the Board of Revenue.

(2)

In respect of any area which is not a village, the unit aforesaid shall be as may be directed by the Chief Survey Officer or the Settlement Officer.

(3)

The procedure to be followed in declaring any tract of land to constitute a village shall be as may be prescribed.]

38.

1(Validation of past records and settlement of rent

(1)

All records published in the course of proceedings relating to survey preparation of record-of-rights or settlement of rent and all records maintained before the date of commencement of this Act under the provisions of any law for the time being in force or any custom having the force of law or under orders of Government, shall be deemed to have been finally published or maintained under Sections 6-C, 12-B, 23 or 16, as the case may be, and all rents settled prior to the said date under any such law, custom or order, as aforesaid, shall be deemed to be settled under this Act.

(2)

The other provisions of the Act shall, mutatis mutandis apply to all such records and rents so settled.

Explanation-For the purpose of the application of Sections 6-D, 15,25 and 42 of the date of final publication shall be taken to be the date of commencement of the Orissa Survey and Settlement (Amendment) Act, 1965.

(3)

Notwithstanding anything in the foregoing sub-sections no proceedings shall be maintainable

(a)

under, Section 6-D, 15 or 25 if the record or any entry therein or the settlement of rent had, prior to the date of commencement of the Orissa Survey and Settlement (Amendment) Act, 1965, been

(i)

subject to the revision by the Board of Revenue" or

(ii)

after being made, further considered by any authority in accordance with any law or under orders of Government; or

(iii)

subject to any decision by a Civil Court; or

(b)

under Section 42 if the matter had been in issue in a previously instituted suit in a Civil Court.]

1.

Substituted by Act No.9 of 1966.

39.

1[x xxxx]

40

Protection of action taken under this Act

No suit or other legal proceedings shall lie against any person for anything in good faith done or purporting to be done under this Act or any Rule of Order made there under.

41.

Correction of arithmetical mistake

2(Any Settlement Officer or Chief Survey Officer or any other Officer specially empowered by the Board of Revenue] in this behalf may on application or on his own motion, correct any clerical or arithmetical mistake in any map, plaint or in any record-of-rights or any error arising therein from any accidental slip or in omission:

Provided that no such correction shall be made unless reasonable notice has been given to the parties concerned.

42.

Limitation of jurisdiction of Civil Court

1[(1)

No suit shall be brought in any Civil Court in respect of any order directing survey, preparation of record-of-rights or settlement of rent under this Act or in respect of publication, signing or attestation of any record thereunder or any part thereof:

Provided that any person aggrieved by any entry in or omission from any record finally published under Section 6-C, 12-B or 23 in pursuance of Section 36 may, within three years from the date of such publication, institute a suit for relief in a Civil Court having jurisdiction.

(2)

When such Court has passed final orders it shall notify the same to the Collector of the district and all such alterations as may be necessary to give effect to the orders of the said Court shall be made in the records published as aforesaid.]

1.

Omitted by Act. No. 9 of 1965.

2.

Substituted by Act No.7 of 1962.

43.

Power to make Rules

(1)

The Government may, after previous publications, make rules for the purpose of carrying out the provisions of this Act.

(2)

In particular and without prejudice to the generality of the foregoing power, the Government may make rules-

(i) to regulate the procedure to be followed by 1[different officers and authorities] in the discharge of any duty imposed or the exercise of any power conferred upon them by or under the Act and may by such rules confer upon any such Officer

(a) any power exercised by a Civil Court in the trial of suits;

(b) power to enter upon any land and to survey, demarcate and make a map of the same 2[x x]; and

(c) power to cut and thrash the crops on any land and weigh the produce with a view to estimating the capabilities of the soil;

(ii) to prescribe the forms to be used and the mode of service of notices issued under this Act, where no form or mode is prescribed by this or any other Act;

(iii) as to the procedure to be followed 1[in hearing applications and appeals] under this Act;

(iv) as to the fees, costs and charges to be paid for the purposes of this Act 3[notwithstanding anything in the Court-fees Act 7 of 1870.]

(v) 2[x xxx]

(vi) 2[x x x x]

(vii) 2[x x x x]

(viii) 2[x x x x]

1. Substituted by Act No.7 of 1962.

2. Omitted *ibid.*

3. Added *ibid*

44. Rules to be laid before Assembly

All rules made under Section 43 shall be laid as soon as possible after they are made before the Orissa Legislative Assembly for a total period of fifteen days which may be comprised in one session or in two or more sessions, and shall be subject to such modification as the Assembly may make during the said period.

45. Repeal

With effect from the date, this Act comes into force in any area, the laws mentioned hereunder shall, with respect to the said area, be repealed, namely:

(a) any law in force in any of the merged territories to the extent it is repugnant to the provisions of this Act; and

(b) the enactments specified in Column 2 of the Schedule to the extent specified in Column 3 thereof.

46. Effect of repeal

(1) Nothing contained in this Act shall, in any way affect any proceedings on pending the date this Act comes into force under any of the enactments or laws referred to in Section 45 and 1[all such proceedings shall be continued up to the stage of final, publication of records under the said enactments or laws].

(2) For removal of doubts, it is hereby declared that the right of the Government to realise the costs of all proceedings relating to survey record- of-rights and settlement of rent whether continued or completed under the enactments specified in the Schedule shall remain unaffected notwithstanding anything contained in this Act.

2[46A] .Power of Settlement Officer under the Central Provinces Acts to be exercised by officers appointed under this Act

Notwithstanding anything contained in the Central Provinces Acts mentioned below, the Settlement Officers and Assistant Settlement Officers appointed under this Act shall respectively exercise the powers and perform the functions of

(a)

Chief Settlement Officers and Settlement Officers under the Central Provinces Land Revenue Act 18 of 1981, and the Central Provinces Tenancy Act 11 of 1898, and

(b)

Settlement Officers and Assistant Settlement Officers under the Central Provinces Land Revenue Act 2 of 1917, and the Central Provinces Tenancy Act 1 of 1920.]

1.

Substituted by Act No.7 of 1962.

2.

Inserted *ibid*.

47.

Power to remove difficulties

If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, do anything which appears to them necessary for purpose of removing the difficulty.

SCHEDULE

ENACTMENT REPEALED [See Section 45]

Number and year

Short title

Extent of repeal

1

2

3

V of 1875

The Bengal Survey Act

The Whole

VIII of 1923

The Madras Survey and Boundaries Act

The Whole

I of 1908

The Madras Estate Land Act Chapters XI and XII

The provisions of other Chapters in so far as they are repugnant to the provisions of this Act

II of 1913

The Orissa Tenancy Act Chapters XI and XII

The provisions of other chapters in so far as they are repugnant to the provisions of this Act

VI of 1929

The C.P. Settlement Act

So far as its provisions are repugnant to this Act.

XI of 1898

The C. P. Tenancy Act

So far as its provisions are repugnant to this Act.

I of 1920

The C. P. Tenancy Act

So far as its provisions are repugnant to this Act.

XVIII of 1881

The C. P. Land Revenue Act

So far as its provisions are repugnant to this Act.

II of 1917

The C. P. Land Revenue Act

So far as its provisions are repugnant to this Act

1[1 of 1920

Bihar and Orissa Municipal Survey Act

The whole

THE ORISSA SURVEY AND SETTLEMENT (AMENDMENT) ACT, 1962

Orissa Act 7 of 1962

38.

Savings

Notwithstanding anything contained in the Principal Act all appeals filed in respect of records finally published or re-published prior to the coming into force of the said Act in pursuance of proceeding relating to preparation of record-of-rights or settlement of rent and pending on the date of coming into force of this Act

shall stand transferred to the Settlement Officer having jurisdiction who shall dispose of the same in accordance with the provisions of the Principal Act and there upon the Assistant Settlement Officer shall make such alterations in the aforesaid records as may be necessary to give effect to the orders passed in appeal.

(2)

All proceedings relating to survey carried on along with the simultaneous proceedings relating to preparation of record-of-rights and settlement of rent ordered under Section 36 of the Principal Act shall be deemed to be proceedings carried on in accordance with the provisions of the said Act as fully and effectively as if an order had then been made under that Act as amended by this Act for carrying on survey preparation of record-of-rights and settlement of rent proceeding simultaneously.

THE ORISSA SURVEY AND SETTLEMENT (AMENDMENT) ACT I, 1965
Orissa Act 9 of 1965

5.

Transitory provision and validation

(1)

Any proceedings of the revision of any record or any entry therein or any rent as specified in Section 38 of the Principal Act, as amended by this Act pending before the Board of Revenue shall be deemed to be proceedings under the Principal Act.

(2)

Any order made by the Board of Revenue prior to the date of commencement of this Act directing revision in proceedings of the nature specified in Sub-section (1) shall be deemed to have been validly made and shall have effect as fully and effectively as if the Board of Revenue had at all material dates been vested with the powers to make such order under the principal Act.

THE ORISSA SURVEY AND SETTLEMENT (AMENDMENT) ACT, 1975
Orissa Act 21 of 1975

5.

Saving

Notwithstanding anything contained in the Principal Act as amended by this Act, the period of limitation for presentation of an application for revision before the Board of Revenue under the Principal Act shall, where the relevant date of final publication has occurred prior to the commencement of this Act, be two years from the said date.

THE ORISSA SURVEY AND SETTLEMENT (AMENDMENT AND VALIDATION) ACT, 1975
Orissa Act 51 of 1975

3.

Validation

Notwithstanding anything contained in any judgment, decree or order of any Court, any rent settled prior to the commencement of this Act, under the Principal Act in respect of any land used for any non-agricultural purpose shall be deemed to have been validly settled under the Principal Act as amended by this Act no such settlement or rent shall be liable to be called in question in any Court merely, on the ground that the principles followed in settling such rent were not provided by or under the Principal Act.