



The Orissa Survey and Settlement Act, 1959

Act 3 of 1959

Keyword(s):

Landlord, Record-of-Rights, Rent, Settlement Officer, Survey, Survey Mark, Survey Officer, Tenant

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ORISSA ACT 3 OF 1959
THE ORISSA SURVEY AND SETTLEMENT ACT, 1958

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ORISSA ACT 3 OF 1959

[THE ORISSA SURVEY AND SETTLEMENT ACT, 1958]

*[Received the assent of the Governor on the 12th January
1959, first published in an extraordinary issue
of the Orissa Gazette, dated the 27th January
1959]*

AN ACT TO CONSOLIDATE AND AMEND THE LAWS RELATING TO SURVEY, RECORD-OF-RIGHTS AND SETTLEMENT OPERATIONS IN 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 the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Orissa Survey and Settlement Act, 1958.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of the State of Orissa.

1. For Statement of Objects and Reasons, see *Orissa Gazette, Extraordinary*, dated the 10th April, 1958 (No. 179) and for Report of Select Committee, see *ibid.* (No. 577).

(Sec. 2)

(3) This section shall come into force at once. The State Government may, by notification¹ 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.

Definitions

2. 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. Sections 2 to 47 came into force with effect from—

(i) 15-12-1960 in the whole of the State of Orissa except (1) Rayagada and Koraput Revenue divisions, (2) Athagarh ex-State area, (3) Angul district, (4) Sonepur subdivision, (5) Panchara ex-zamindari area in Boudh and (6) Kalahandi Sadar and Dharmagarh subdivisions vide Notification No. 53478—S-327/60-R., dated the 12th December 1960, published in *Orissa Gazette*, Extraordinary, dated the 14th December 1960 (No. 789).

(ii) 1-7-1961 in the Rayagada and Koraput Revenue divisions of the district of Koraput excepting certain areas vide notification No. 29807—S-266/61-R., dated the 29th June 1961, published in *Orissa Gazette*, Extraordinary, dated the 30th June 1961 (No. 508).

(iii) 1-10-1962 in certain areas of Kalahandi vide notification No. 45903—S-168/62-R., dated the 29th September 1962, published in *Orissa Gazette*, Extraordinary, dated the 1st October 1962 (No. 535).

(iv) 1-12-1962 in Angul vide notification No. 55457—S-168/62-R., dated the 27th November 1962, published in *Orissa Gazette*, Extraordinary, dated the 30th November 1962 (No. 687).

(v) 1-7-1963 in the Koraput Revenue division vide notification No. 4578—S-168/62-R., dated the 21st January 1963, published in *Orissa Gazette*, Extraordinary, dated the 22nd January 1962 (No. 53).

(vi) 1-4-1963 in Athagarh ex-State Areas vide notification No. 20339—S-164/63-R., dated the 29th March 1963, published in *Orissa Gazette*, Extraordinary, dated the 30th March 1963 (No. 215).

(vii) 1-7-1963 in certain areas of Gunupur Subdivision of the district of Koraput vide notification No. 5964—S-168/62-R., dated the 25th January 1963, published in *Orissa Gazette*, Pt. III dated the 29th March 1963, P. 617.

(viii) 1-4-1966 in all the remaining areas of the State excepting the villages of Sonepur subdivision of the district of Bolangir mentioned in the Schedule vide notification No. 20213—S-95/66-R., dated the 31st March 1966, published in *Orissa Gazette*, Extraordinary, dated the 31st March 1966 (No. 340-C).

(ix) 15-2-1964 in the Panchara Ex-Zamindari of Boudh subdivision of the district of Phulbani vide notification No. 9770—S-39/64-R., dated the 13th February 1964, published in *Orissa Gazette*, Extraordinary, dated the 14th February 1964 (No. 265).

(Sec. 2—Contd.)

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

² [(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 person immediately under whom [a tenant holds land] ³ and includes the Government ;

(6) 'Prescribed' means prescribed by rules made under this Act ;

⁴ [(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 a Civil Court) having jurisdiction under this Act to entertain suits or other proceedings ;

⁵ [(10) 'Settlement Officer' means any Officer appointed as such by Government and includes an Additional Settlement Officer appointed by Government ;]

1. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962), s. 2 (a).

2. Substituted by *ibid*, s.2 (b).

3. Substituted by *ibid*, s.2 (c) for "a raiyat holds".

4. Substituted by *ibid*, s.2 (d).

5. Substituted by *ibid*, s.2 (e).

(Sec. 3)

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

(12) 'Survey mark' means any mark or object erected, made, employed or specified 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 ;]

² [(14) 'village' means any tract of land which has been recognised 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 Acts or Laws, Rules, Regulations, custom or usage in force in any part of the State of Orissa.

CHAPTER II

SURVEY

Power to
order a
survey.

3. ³ [(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 in the State or the boundary thereof.]

1. Inserted by the Orissa Survey and Settlement (Amendment) Act, 1961 (Or. Act 7 of 1962), s.2 (f).

2. Substituted by *ibid*, s.2 (g).

3. Substituted by *ibid*, s.3.

(Sec. 4)

(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 proceedings 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.

4. (1) The ¹ [Board of Revenue] may by notification appoint any ² 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.

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

(2) Subject to the control of the ³ [Board of Revenue,] ⁴ every officer or person so appointed shall exercise and perform the powers and duties of a Survey Officer within such local limits as the ⁴ [Board of Revenue] may direct.

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1. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962), s. 4 (a) for "Government".

2. The words "Revenue Officer or other" omitted by *ibid*.

3. The words "and of any officer or authority appointed by them in this behalf" omitted by *ibid*, s. 4 (b).

4. Substituted by *ibid*, for "Government or the authority to whom the power may be delegated".

5. Omitted by *ibid*, s. 4 (c).

(Secs. 5-6-A)

(4) The survey shall be conducted in such manner^r as may be prescribed by the Government.

Proclamation
to be published by
Survey
Officers.

5. (1) When any survey is ordered under section 3, the Survey Officer shall publish a proclamation in the prescribed manner inviting all persons having any 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 time and from time to time thereafter when called upon for the purpose of pointing out boundaries and supplying information in connection therewith.

Such proclamation to be valid
notice to persons
interested.

(2) 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.

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

6. (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.

Compensation.

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

¹ [(3) 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.]

Preparation
and preliminary
publication of
draft survey
record.

² [6-A. (1) The Survey Officer shall prepare a draft survey record which shall comprise of—

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

1. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962), s. 5, for sub-sections (3) to (5).

2. Inserted by *ibid.*, s. 6.

(Secs. 6-B-6-D)

(b) such other record 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 therefrom during the period of publication.

6-B. 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. Appeal

6-C. (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. Final publication of survey records.

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

6-D. The Board of Revenue may, in any case— Revision by Board of Revenue.

(a) of its own motion, at any time after the date of final publication under section 6-C; or

[(b) on application against an appellate order under section 6-B presented 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.]

(Secs. 7-9)

Final publi-
cation of
survey record
to be notified.

[7. 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.]

Persons res-
ponsible for
the mainte-
nance of
survey
marks.

8. (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.

Recovery of
cost of
survey.

9. (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 ²[recoverable as arrears of land revenue].

3 *

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1. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962), s. 7.

2. Substituted by *ibid.* s. 8 for " recovered as a public demand or arrear of land revenue, as the case may be".

3. Section 10 omitted by *ibid.* s. 9.

(Sec. 11)

CHAPTER III

RECORD-OF-RIGHTS

11. ¹ [(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.] Power of Government to order preparation of record of rights.

(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 shall² be conclusive evidence that the order has been duly made. * * *

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.

(5) The record-of-rights shall comprise of—

(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

1. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962), s. 10 (a).

2. Omitted by *ibid*, s. 10 (b).

3. Substituted by *ibid*, s. 10 (c).

(Secs. 12-12-B)

(b) the khatian which shall show such details as may be prescribed.

(6) For the purpose of preparation 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 the map so prepared and the survey map previously prepared under the provisions of Chapter II the former shall prevail.]

Preliminary
publication
of draft
record-of-
rights and
hearing of
objections

[12. 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 herein or any omission therefrom during the period of publication.]

Appeal.

12-A. 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 specially empowered by Government in this behalf.

Final pub-
lication of
record-of-
rights.

12-B. (1) When all such objections and appeals have been 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.]

(Secs. 13-15)

13.¹[(1) Any record-of-rights prepared and finally published under this Chapter or a certified copy thereof or extract therefrom shall be conclusive evidence of such publication.]

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

(2) The Government may, by notification, declare, with regard to land in any local area or village that a 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.

14. * * * *

15. 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 ³[section 12-B] but not so as to affect any order passed by a Civil Court under section ⁴[42];

Revision by Board of Revenue.

⁵ [(b) on application against an appellate order under section 12-A presented within one year from the date of final publication under section 12-B, the revision of any record-of-rights or any portion thereof but not so as to affect any order passed by a Civil Court under section 42:]

1. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962), s. 12.

2. Section 14 omitted by *ibid*, s. 13.

3. Substituted by *ibid*, s. 14 for "sub-section (2) of section 12.

4. Substituted by *ibid*, for "24".

5. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1975 (Or. Act 21 of 1975), s. 3.

(Secs. 16-18)

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.

Maintenance
of records.

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

Recovery of
cost of pre-
paration of
record-of-
rights.

17. (1) The cost of preparation of record-of-rights on an application made under sub-section (2) of section 11 or such portion thereof as may be ordered shall be borne by the applicants :

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 so assessed shall be ²[recoverable as arrears of land revenue].

CHAPTER IV

SETTLEMENT OF RENT

Settlement
of rent.

18. (1) The Government may at any time, direct ³[the settlement of] rent in respect of land situate in any village or local area for which a record-of-rights has already been finally published.

1. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1965 (Or. Act 9 of 1965), s. 2.

2. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act, 7 of 1962), s. 16 for "recoverable as a public demand or arrear of land revenue, as the case may be".

3. Substituted by *ibid*, s. 17 (a) for "a revenue officer to settle".

(Sec. 19)

(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 '[recoverable as arrears of land revenue].

²[19. (1) The Government may prescribe the principles for fixing fair and equitable rent for any land used for agriculture having regard to—

Principles for fixing rent.

(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 purposes 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;

1. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act. 7 of 1962), Sec. 17(b) for "recovered as a public demand or arrear of land revenue, as the case may be"

2. Substituted by the Orissa Survey and Settlement (Amendment and Validation) Act, 1975 (Or. Act 51 of 1975), s. 2.

(Secs. 20-21)

- (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 also prescribe the principles 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 or 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.]

Manner of
fixation of
rent.

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

Preliminary
publication
and amend-
ment of
Settlement
Rent Roll.

[21. (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

1. Substituted by the Orissa Survey and Settlement (Amendment) Act 1962 (Or. Act 7 of 1962), S. 18.

2. Substituted by *ibid*, S. 19.

(Secs. 22-23)

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 motion or on the application of any party aggrieved, at any time before a Settlement Rent 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) When all such objections have been disposed of the Assistant Settlement Officer shall submit the Settlement Rent Roll to the Settlement Officer with a full statement of the grounds of his proposals and a summary of the objections, if any, received by him. Sanction of settled rent and modification of orders passed on objections.

(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.]

[23. (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. Incorporation of settled rent in the record-of-rights and final publication thereof.

1. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or Act 7 of 1962), s. 20.

2. Substituted by *ibid.*, s. 21.

(Secs. 24—28)

(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. * * *

Revision by
the Board of
Revenue.

25. The Board of Revenue may, in any case —

(a) of its own motion, at any time after the date of final publication under ²[section 23] ; or

³[(b) on application against an order under sub-section (2) of section 22 presented 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 ⁴[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.

26. * * *

Presumption
as to correct-
ness of rents
settled.

27. Subject to the provisions of sections ⁶[25 and 42] all rents settled under sections ⁷[20, 21 and 22] and incorporated in a record-of-rights finally ⁸[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.

Date from
which settled
rent takes
effect.

28. When any rent is settled ⁹* * * under this Chapter it shall take effect from the beginning of the agricultural year next after the date of sanction ¹⁰* * * under ¹¹[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. Omitted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962), s. 22.

2. Substituted by *ibid.*, s. 23 for "sub-section (2) of section 22".

3. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1975 (Or. Act 21 of 1975), s. 4.

4. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act of 1962), s. 23, for "24".

5. Omitted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962), s. 24.

6. Substituted by *ibid.*, s. 25 (a), for "23 to 25".

7. Substituted by *ibid.*, s. 25 (b), for "19 to 22".

8. Substituted by *ibid.*, s. 25 (c) for "re-published under sub-section (3) of section 22".

9. Omitted by *ibid.*, s. 26 (a).

10. Omitted by *ibid.*, s. 26 (b).

11. Substituted by *ibid.*, s. 26 (c), for "sub-section (2)"

(Secs. 29—31)

CHAPTER V

JURISDICTION AND PROCEDURE

¹[29. (1) All authorities hearing any application, appeal or revision under any of the provisions of this Act shall do so as Revenue Courts. Jurisdiction of Courts.

(2) Save as otherwise provided in this Act when an order has been made under section 3, 11, 18 or 36 no court shall entertain any application or suit in respect of any matter for determining or deciding which provision is made in this 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 section 6-C, 12-B or 23, as the case may be.]

Vol 1908 30. 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 proceedings or shall apply to them subject to modifications and additions specified in the rules. Application of Code of Civil Procedure 1908, to proceedings under this Act.

31. (1) The ²[Settlement Officer] may by written order, distribute in such manner as appears to him fit any business cognizable under this Act by any ³[Assistant Settlement Officer] and by like order he may withdraw any case pending before such ⁴[Officer] and either dispose of the same himself or by written order refer it for disposal to any other Revenue Officer in the district. Power of Collector and Board of Revenue to distribute work.

⁵[(2) The aforesaid powers shall, in relation to all business cognizable 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 the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962), s. 27.

2. Substituted by *ibid.*, s. 28 (a).

3. Substituted by *ibid.*

4. Substituted by *ibid.*

5. Substituted by *ibid.*, s. 28 (b).

(Secs. 32—36)

Power to
call for and
revise
proceedings
of Revenue
Officers.

32. The Board of Revenue may call for the record of any proceeding before '[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 seems fit.

Delegation of
powers.

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

Limitation
or applica-
tions.

34. 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.

Application
of the Indian
Limitation
Act, 1908.

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

CHAPTER VI

MISCELLANEOUS

Simultaneous
proceedings.

²[36. (1) Notwithstanding anything contained in Chapters II, III and IV, the Government may make an order directing that proceedings relating to—

- (a) survey and preparation of record-of-rights,
- (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 proceedings with such modifications as may be prescribed.

1. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962), s. 29.

2. Substituted by *ibid.*, s. 30

(Secs. 37-38)

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

¹[37. (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 and record and no other area shall be adopted as such unit without the sanction of the Board of Revenue.

Demarcation
of village
boundaries.

(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.]

²[38. (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.

Validation of
Past records
and settle-
ment of rent.

(2) The other provisions of this Act shall *mutatis mutandis*, apply to all such records and rents so settled.

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

1. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962), s. 37.

2. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1965 (Or. Act 9 of 1965), s. 3.

(Secs. 39-41)

(3) Notwithstanding anything in the foregoing sub-sections, no proceedings shall be maintainable—

(a) under sections 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 —

Orissa Act
9 of 1965.

(i) subject to a 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.]

39.

* *

*

*

*

Protection of
action taken
under this
Act.

40. No suit or other legal proceeding shall lie against any person for anything in good faith done or purporting to be done under this Act or any rule or order made thereunder.

Correction of
arithmetical
mistakes.

41. 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, plan or in any record-of-rights or any error arising therein from any accidental slip or omission :

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

¹ Omitted by the Orissa Survey and Settlement (Amendment) Act, 1965 (Or. Act 9 of 1965), s. 4.

² Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962), s. 32

(Secs. 42-43)

[42. (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 framing, publication, signing or attestation of any record thereunder or any part thereof;

Limitation of jurisdiction of Civil Court.

Provided that any person aggrieved by any entry in or omission from any record finally published under section 6-C, 12-B or 23 or 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.]

43. (1) The Government may, after previous publication, make rules² for the purpose of carrying out the provisions of this Act.

Powers to make rules.

(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 ³[different officers and authorities] in the discharge of any duty imposed or the exercise of any power conferred upon them by or under this Act and may by such rules confer upon any such Officer—

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

1. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962); s. 33.

2. For Rules, see Notn. No. 46572—8—6/60—R, dated the 29th October 1960, published in the Orissa Gazette, Extraordinary, dated the 29th October 1960 (No. 679).

3. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962); s. 34 (a) for "Collector or Revenue Officers".

(Sec. 44)

- (b) power to enter upon any land and to survey, demarcate and make a map of the same ¹ * * * ; 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 ²[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, 1870] 7 of 1870
- (v) for the survey of lands and the preparation of a record-of-rights and of settlement of rent ;
- (vi) ** * * *
- (vii) prescribing*the form in which registers shall be maintained of applications and appeals disposed of under this Act ;

(viii) ** * *

Rules to be
laid before
Assembly.

44. 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 modifications as the Assembly may make during the said period.

1. Omitted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962), s. 34 (a).

2. Substituted by *ibid*, s. 34 (b) for " in applications".

3. Added by *ibid*, s. 34(c).

4. Omitted by *ibid*, s. 34 (d).

(Secs. 45-46-A)

45. 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 :— Repeal.

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

(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[46-A. 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— Powers of Settlement Officers under the Central Provinces Acts to be exercised by officers appointed under this Act.

- (a) Chief Settlement Officers and Settlement Officers under the Central Provinces Land Revenue Act, 1881 and the Central Provinces Tenancy Act, 1898 ; and

- (b) Settlement Officers and Assistant Settlement Officers under the Central Provinces Land Revenue Act, 1917 and the Central Provinces Tenancy Act, 1920].

C. P. Act 38
of 1881.
C.P. Act 11
of 1898.

C. P. Act 2
of 1917.
C. P. Act 1
of 1920.

1. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962), s. 35.

2. Inserted by *ibid*, s. 36.

(Sec. 47)

Power to
remove diffi-
culties.

47. 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.

(Sch.)

SCHEDULE

ENACTMENTS REPEALED

(See section 45)

Number and year 1	Short title 2	Extent of repeal 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 Estates Land Act.	Chapters I and II. 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 I of 1920	.. Bihar and Orissa Munici- pal Survey Act.	The whole]

1. Added by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962),
s. 37.

ORISSA ACT 5 OF 1994

***THE ORISSA SURVEY AND SETTLEMENT (AMENDMENT) ACT, 1994**

[Received the assent of the Governor on the 26th March 1994, first published in an extraordinary issue of the *Orissa Gazette*, dated the 5th April 1994]

AN ACT TO AMEND THE ORISSA SURVEY AND SETTLEMENT ACT, 1958

BE it enacted by the Legislature of the State of Orissa in the Forty fifth Year of the Republic of India as follows:—

Short title 1. This Act may be called the Orissa Survey and Settlement (Amendment) Act, 1994.

Amendment 2. In section 33 of the Orissa Survey and Settlement Act, 1958 for the Orissa
of section 33. words "an Officer not below the rank of a Revenue Divisional Commissioner", AC
the words "any officer above the rank of a Settlement Officer" shall be substituted' 95

* For the Bill see *Orissa Gazette*, Extraordinary, dated the 24th February 1994 (No. 259)



ORISSA ACT 13 OF 1998

THE ORISSA SURVEY AND SETTLEMENT (AMENDMENT AND VALIDATION) ACT, 1998

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ORISSA ACT 13 OF 1998

***THE ORISSA SURVEY AND SETTLEMENT (AMENDMENT AND VALIDATION) ACT, 1998**

[Received the assent of the Governor on the 28th September, 1998, first published in an extraordinary issue of the Orissa Gazette, dated the 16th October 1998]

AN ACT TO AMEND THE ORISSA SURVEY AND SETTLEMENT ACT, 1958 AND TO VALIDATE CERTAIN ACTIONS TAKEN AND THINGS DONE PURSUANT TO THE ORISSA SURVEY AND SETTLEMENT (AMENDMENT) RULES, 1976.

BE it enacted by the Legislature of the State of Orissa in the Forty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Orissa Survey and Settlement (Amendment and Validation) Act, 1998.

Amendment of section 44.

2. In the Orissa Survey and Settlement Act, 1958 (hereinafter referred to as **Orissa Act** the principal Act), for section 44, the following section shall be deemed to have been ^{3 of 1959.} substituted on and with effect from the 24th day of March, 1976, namely:—

“44. All rules made under section 43 shall, as soon as may be after they are made, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions, and if during the said period the State Legislature makes any modifications therein, the rules shall thereafter have effect only in such modified form, so, however, that such modification shall be without prejudice to the validity of anything previously done under the rules.”.

Validation.

3. Notwithstanding anything to the contrary in the principal Act, or any judgement, decree or order of any Court, the Orissa Survey and Settlement (Amendment) Rules, 1976 (hereinafter referred to as the Amendment Rules) made under section 43 of the principal Act and published under the notification of the Government of Orissa in Revenue Department No. 21474-R., dated the 23rd March 1976 as S. R. O. No. 344/76, shall be deemed to be effective on and with effect from the date of such publication as if section 44 of the principal Act as amended by section 2 of this Act had been in force at all material points of time when the rules were so made and published and were laid before the Orissa Legislative Assembly in pursuance of section 44 of the principal Act and, accordingly,—

(a) all actions taken or things done or purported to be taken or done including the fixation, assessment and realisation of rents pursuant to the amendments made by the Amendment Rules shall be deemed to have been validly done or taken; and

(b) no suit or other proceeding shall be instituted, maintained or continued in any Court merely on the ground that the Amendment Rules were not effective prior to laying of the same before the Assembly for a total period of fifteen days as required by section 44 of the principal Act as it stood prior to the commencement of section 2 of this Act.

*For the Bill see Orissa Gazette, extraordinary, dated the 1st July 1998 (No. 841)