

ODISHA SURVEY AND SETTLEMENT ACT, 1959

The Odisha . Gazette EXTRAORDINARY PUBLISHED BY AUTHORITY ORISSA ACT 3 OF 1959 OR-SSA SURVEY AND SEITLEBÆNT ACT, 1958] tReceived 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 SEITIEÆNT OPERATIONS IN STATE OF ORISSA WHEREAS it IS &cpedient to consolidate and amend the laws relating to survey, record-of-rights and settlement operations in the State of Orissa It is hereby by the Legislature of the State of Orissa in the Ninth Year of-ihe Republic of India as follows CHAPTER 1 PRELDmqARY Short dt.!e 1. (1) %is Act may be caned •the Orissa Survey aaã_ and Settlement Act, 1958. (2) It extends to the whole of the State of Orissa. i. F" Seement, or Objæts and Reasons, Ortsn Gazette. tho 10th 1958 040.179) and for of Sekct Committee Law—5) 54 Deflaitioog TAB ORISSA SURVEY AND SETTLE2ÆNT ACT, 1958 (Or. (3) Tbjs section shall come into force m. once. The State Government may, by notificationl in the official Gazette, direct that all or any of the remain- ing provisions of this Act shall come into force in such area and on such date as may be specified in the notification

2. In this Act, unles9 there is anything repugnant in the subject or context—(1) 'Agricultural year' means the year as speci- fied in the tenancy laws in force or in the . absence of any such laws, as may be prescribed by the Goverré ment in respect of different districts or . localities according to local custom or usage I. Sections 2 to 47 came into force with erect from— (D 15-12-1960 in the whole of the State of Orissa except (I) apd Koraput. Revenue divisions, (2) Athawrh ex-State area, (3) Angul district, (4) Sonepur subdivision, (5) Pancham ex-zamindaxi area in Boudh and (6) Kalahandi Sadar and Dhar•rnagarh subdMsions vide Notification No. -327160.R., dated the 12th Ik:€-mbet 1960, published in Orissa Gazelm Extraordinary. dated the 14th 1960 (No. 789). (iD 1-7-1961 in the Rayagada and Koraput Revenue divisions of the district of Koraput exæpti.ng c*ttain area vide No. R., dated the 29th June 1961, published 'in Orissa Gazette, Extraordinary, dat<l the 30th June 196' (No. 508)- (ill) 1-10-1962 in ærlain are-g - of Kalahmndi vide Not dated the 29th September 1962, published in Orizsa Gazette. Extraordina.ry, dated the 1st 1962 (No. 535). (Ip). 1-12-1962 in Angil vide notification No. •5S457—S-16t/62-R, daiéd the 27th November 1962, published in Orissa Gazette, Extraordinary, the 30th November 1962 (No. 687). (Y) _ 1-7-1963 in thd Kompnt Revenue division vido No. dated 21st Janu.ary 1963, published in Orissa Gazette, Extraordinary, dated the "nd Jam.»a.fY 190 (No. -53). (VI) 141963 in Atha.garh ex-State_ Areas vide hotidcation NO. date& the 29th Match 1963* published in Orbsg Gazelle, dated the 30th March *963 (No. 215). (iD 1-7-1963 in certain area5 of Gunupur Subdi'.üon of the district of-Koraput vide notification No. dated the 25th Jazuary 1963, published im Orissa dated the 29th March 1963, (viiD 1+1966 in all the remaining arms of the State excepting tho of Sonepur subdivision of the dig&ict of Bola-ngir mentioned in the *hedulevide notfication No. dated the 31st March 1966, in Orissa Gazejge. dated the 31 st March 1966 (No."-C). (tx) 15-2-194 in tho Puebara Ex-Zamindari of Boudh subdivision of the disu•igt of Phulbani vide noüßcation No. dated tha 13th Febre.ra.iy 19", publishd in Origa Gazegge, Extraord.i.nary, the 14-1b February 1964 (No. 265). 3 of 1959] THE ORISSA SURVEY ANP SEITLBMBNT ACT, 1958 (Sec. 2— Contd.) 1 'Assistant Settlement Officer' means amy Officer appointed as such by the Board of Revenue 2 'Chief Survey Officer• means any Officer appointed as such by Government and includes an Additional Chief Survey Officer appointed by GOY- emment ; I (4) 'Government' means the State Government of Orissa ; (5) 'Landlord' means a person immediately under whom [a •tenant holds landl 3 and includes the Government ; (6) 'Prescribed' means prescribed by rules made under this Act ; 4 'record-orrights' means the record-of- rights prepared under this Act ; (8) 'Rent' means whatever- is lawfully •payable. oi 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 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 undet this Act' to entertain suits or other proceedings s [(10) 'Settlement Officer' means any Officer appointed as such by Government and includes an Additional Settlement Offcéé appointed by Govern: ment I. by the Ori.ssg Survey and *ttlement amendment) 1962 (Ot. Act 7 of 1962), 3, 2 55 Subtitu*d 2

3. Substituted Substituted- 4, 5. Substituted *ibid*, (b). by *ibid*, 8.2 (c) for "a-raiyat *ibid*, 15.2 by *ibid*, s.2 (e). Power to survey. THE ORISSA SURVEY AND SETTLEMENT ACT, 1958 [Or, Act (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 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 ; (18) '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 1(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 11 SURVEY 3, 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.] Inserted by the Orissa Survey and (Amendment) Act, (Or. 7 of 1962), s.2 2. by *Ibid*, s.2 (g). 3. by *ibid*, 8.3. 3 of 1959] THE ORISSA SURVEY AND SETTLEMENT ACT, 1958 (Sec. 4) (2) The Government shall be competent at any time during the continuance of 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 ; 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. 57 4. (1) The [Board of Revenue] may by notification appoint any Officer or person either by name or by virtue of his office to be a Survey Officer delegation for all or any of the purposes of this Act. Of Powers and manner (2) .Subject to the control of the [Board of Revenue,] every officer or so appointed shall exercise and perform the powers and duties of a Survey Officer within such local limits as the Board of Revenue may direct, 1. by the Orissa and Settlement (Amendment) Act, Act 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" by *Ibid*, s. 4 (b). 4. by the authority' to whom the power may 5. Omitted by *ibid*, s. 4 (c). 58 ORISSA SURVEY AND SETTLEMENT ACT, 1958 (Secs. 56-A) (4) The survey shall be conducted in such manner as may be prescribed by the Government. Part II. 5. (1) When any survey is ordered under section 4 (1) Survey Officer. Such proclamation to be made to be entered upon land, off" compensation for damage and may dispute. 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. (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. 6. (1) After the issue of the proclamation under sub-section (1) of 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) The Survey Officer shall, after assessing the loss by any clearance as is mentioned in sub-section (1), offer reasonable compensation to the Owners of the materials so cleared. [(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.] 6-A. (1) The Survey Officer shall prepare a Preliminary 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 (b) by the Orissa Survey and Settlement (Amendment) 1962 (Or. Act 7 of 1962), s. 5, for sub-sections (3) to 2. Insert" by *ibid*. s. 6. 3 of 1959] THE ORISSA SURVEY AND SETTLEMENT ACT, 1958 secs. 6-B-6-D) (b) such

other record as the Board of Revenue may, by order, specify in that behalf. 59 (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. 6-C. (1) When all such objections and appeals, each of 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 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 localities or parts thereof. 6-1). 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) 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.] I. Substituted by the Orissa Survey and Settlement (Amendment) 1975, s. 2. • 60 TKA ORISSA SURVEY AND SETTLEMENT ACT, 1958 (Secs. 7-9) [Or. Act 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. (1) Subject to such conditions as may be prescribed in this behalf, every person interested in the maintenance of the land shall be bound to maintain, renew and repair the survey marks on or within the boundaries of his survey 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. (1) The whole or such portion of the costs as Recovery of cost of may be ordered in respect of survey made on the survey. 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 [recoverable as arrears of land revenue]. I. 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 public demand or arrear of land revenue, as the case may be." 3. Section 10 omitted by ibid, s. 9. 3 of 1959 ORISSA SURVEY AND SETTLEMENT ACT, 1958 (sec. 11) CHAPTER 111 RECORD-OF-RIGHTS 61 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. (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. 3 When an order is made under— (1) the Assistant Settlement Officer shall proceed to prepare the record-of-rights in the prescribed manner. (5) The record shall consist 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 'I. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962), 2. Omitted by ibid, s. 10 (b)

3. Substituted by ibid* s.10 (c). 62 Preliminary publication of draft record-of-rights and hearing of objections Appeal. Final publication THB ORISSA SURVEY AND SETTLEMENT ACT, 1958 (Secs. 12-12-B) [Or. (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 11 the former shall prevail. 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 therein or any omission therefrom during the period of publication.] 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. If-B. (1) When all such objections and appeals have been disposed of the Assistant Settlement Officer shall finally frame the record-of-rights incorporating rights, 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 the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962), s. 13 of 1959] ORISSA SURVEY AND SETTLEMENT ACT, 1958 (Secs. 13-15) 63 Any record-of-rights prepared and a. to final finally published under this or a certified copy publication thereof or extract therefrom shall be conclusive evidence of such publication. 12. (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 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—Revision by Board of (a) of its own motion the revision of any record, Revenue, of-rights, or any portion of a record-of-rights at any time after the date of final publication under section 12-BI but not so as to affect any order passed by a Civil Court under section 4 [42]; 5 C(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:) I. Substituted by the Orissa Survey and Settlement (Amendment) Act 1962 (Or. Act 7 of 1962), s. 12 Z Section 14 omitted by ibid, s

3. Substituted by ibid.s 14 for '(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. 64 THE ORISSA SURVEY AND SETTLEMENT ACT, 1958 (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. 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.] 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 18. (7) The Government may at any time, direct Settlement Officer [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). 2

2. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act, 7 of 1962), s. 16 for "recovered as a public demand or arrear or land revenue, as the case may be". {bkd, s. 17 (a) for "a revenue omw to settle"

3. Substituted by 3 of 1959] THE ORISSA SURVEY AND SETTLEMENT ACT, 1958 (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]. 65 2119* (1) The Government may prescribe the fixing rent. 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 purposes of this sub:sec- tion— (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; I. Substituted the Orissa Survey and Settlement 1962 (Or. Act. 7 of 1962), Sec. 17(b) for as a public demand or arrear as the case may be. 2. Substituted* the Orissa Survey and Settlement Act, (or. Act of 1975). S. 2. 66 Manner of fixation of rent. PEJiminzry publication and amendment of Settlement Rent Roll. THE ORISSA SURVEY AND SETTLEMENT ACT, 1958 (secs. 20-21) [or. Au (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. (Z) 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— (d) 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.] T 20. When an order is made under section 18 the Assistant Settlement Officer shall fix the fair and equitable rent in the prescribed manner.] 2[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 Survey and Settlement (Amendment) Act 1962 (Or. Act 7 of 1962), .S. 18

2. Substituted by 19 of 1959] ORISSA SURVEY AND SETTLEMENT ACT, 1958 (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.] 67 [22. (1) When all such objections have been of the rent disposed of the Assistant Settlement Officer shall and modify- submit the Settlement Rent Roll to the Settlement Officer for orders passed Officer with a full statement of the grounds of his objections. 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.] 2123. (1) After sanction of the Settlement Incorporation of Rent Roll the Assistant Settlement Officer shall incorporate the settled rent in the record-of-rights, in the record-of- make such amendments or alterations in the said rights and the map, if any, and shall cause a fresh publication thereof. copy of the record-of-rights to be finally published in the prescribed manner. I. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962). 20

2. Substituted by s.21. 68 THE ORISSA SURVEY AND SETTLEMENT ACT, 1958 [Or. Act (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 124. Revision by the Board 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 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 4142] : 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, 27. Subject to the provisions of sections [25 and Presumption as to 42] -all rents settled under sections [20, 21 and 221 and neg of tents . . Incorporated in a record-of-rights finally published souled. 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. When any rent is settled 9* Date from which settled under this Chapter it shall take effect from the begin- reat takes ning of the agricultural year next after the date of sanction under [sub- section 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.I. Omitted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act 7 of 1962). s. n. a. 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 1962), s. 23, for "24"

5. Omitted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. Act of s. 24 substituted by ibid., by ibid., 22"

9. Omitted by ibid.. s. 10. by ibid.. 26 (b). 6. 7. 8. 11. s. 25 for "23 s. 25 for "19 to 22". Substituted by ibid., s. 25 (c) for "re-published under sub-section (3) of 26 by ibid., 26 (2)" 3 of 1959] THE ORISSA SURVEY AND SETTLEMENT ACT, 1958 (Secs. 29—31) CHAPTER V JURISDICTION AND PROCEDURE 69 1129, (1) All authorities hearing any application, Jurisdiction of co.,rt. 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 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.] 30. The Government may from time to time of Code of make rules consistent with this Act declaring that civil procedure of 1908 any provisions of the Code of Civil Procedure, 1908, to 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. of 31. (1) The [Settlement Officer] may by written order, distribute in such manner as appears to him Board of fit any business cognizable under this Act by any [Assistant Settlement Officer] and by like order he may withdraw any case pending before such [Officer and either dispose of the same himself or by written order refer it for disposal to any other Revenue Officer in the district. 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.] t. Substituted by the Survey and Settlement (Amendment) Act 1962 7 of 1962), s. 27

2. Substituted by ibid., 1, 28 (a)

3. Substituted by 'bld

4. Substituted by Ibid. Substituted by i. 28 70 THE ORISSA SURVEY AND SETTLEMENT, ACT 1958 (secs. 32—36) [Or. Act Power to 32. The Board of Revenue may call for the call for and record of any proceeding before [any officer] from revise whose decision no appeal lies if such Officer appears of Revenue to have exercised a jurisdiction not vested in him Officer's, by law or to have failed to exercise a jurisdiction so vested or while acting in the exercise of his juris- diction 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

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

34. Subject to the provisions of the next following Limita t i o n 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. Subject to the provisions of this Act the Applicati o n ofthe provisions of the Indian Limitation Act, 1908, except 9 of19Q8 Limita tio n section 6, 7, 8, 9, 19 and 20 shall apply to all appeals 1928.and applications mentioned in section 34

CHAPTER MISCELLANEOUS 2136. (I) Notwithstanding anything contained Simultaneous [11 and I V, the Government may make proceedings. In Chapters I l, an order directing that proceedings relating to— (a) survey and preparation of record-of-rights, (b) preparation of record-of-rights and settle- ment 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 Sha}! apply to such proceed* ings with such modifications as may be prescribed, 2. Substituted by the Orissa Survey •ad (Amendment) Act. 1962 (Or. 7 of 1962), s. 29. a. Substituted by 1b", s. 30 3 of 1959] THE ORISSA SURVEY AND SETTLEMENT ACT, 1958 (Secs. 37-38) (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.) 1137. (I) In the demarcation of village boundaries of village for the purpose of making a survey ang 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. (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. (I) All records published in the course of Validation of Pas' records proceedings relating to survey, preparation of record- •ad settl•• of-rights or settlement of rent and all records main- tained, before the date of commencement of this ment or 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 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 publi- cation shall be taken to be the date of commence- ment of the Orissa Survey and Settlement (Amend- ment) Act, 1965. I. Substituted by the OrLsa Survey and Seulcment (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. 72 THE ORISSA SURVEY AND SETTLEMENT ACT, 1958 (secs. 39-41) (Or. Act (3) Notwithstanding anything in the foregoing sub-sections, no proceedings shall be maintainable--•• (a) under sections 6-D, 15 or 2S if the record or anv entry therein or the settlement of rent had, prior to the date of commence- ment of the Orissa Survey and Settle, Orissa ment (Amendment) Act, 1965, been — (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 Govern- ment ; ot (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

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

41. 2[Äny Settlement Officer or Chief Survey Correction of arithmetic.' Officer or' any other omcer specially empowered by the Board of Revenue] in this behalf may on or on his own motion, correct any application 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. i Omitted Fy the Orissa Survey and Settlement (Amendment) Act, 196S (Or. ACI 9 s. 4. 2 Substituted the Orissa Survey and Settlement (Amendntent) Act' 1962 (Or. Act 7 of 1962), s. 32 3 or 1959] THB ORISSA SURVEY AND SETTLEMENT ACT, 1958 (secs. 42-43) 73 (1) No suit shall be brought in any Civil jurisdiction Court in respect of any order directing survey, pre- of Civil paration of record-of-rights or settlement- of rent under this Act or in respect of framing, publication, signing 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 or in pursuance of seotion 36 may, within three years from the date of such publication, institute a suit for relief in a Civil Court having jurisdiction. 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.] Powers to 43• (1) The Government may, after previous make rules. publication, make rules2 for the purpose of carrying out the provisions of this Act. (2) In particular and without Érejudice to the generality of the foregoing power the Government may make rules:— (i) to regulate the procedure to be followed by 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 ili the trial of suits ; .i,iSübstitoled by the Orissa•Survey and Settlement (Arneodn:ent) Act, 2. For Rules, see Notfo. No. dated thc 29thOEttober 1960, published in the Orissa Gazelle, Extraordinary, dated the 29th October '960 (No. 6791

3. Sabe&.ted .by the.,Orisa Servey and Setilement (Amendmmt)Aât, (962 (Or. ACI Vt' -44 ror • •C
rdlecvor or Revenue Officers. 74 ROI% to be ORISSA SURVEY AND SMTLEMENT ACT•, 1958 (Sec.
44) (Or. Act (b) power to enter upon • any land and to survey, demarcate and make a map of the same (c)
power to cut and thrash the crops on any land and weigh the produce with a view fo estimating the capabi-
I-ities 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 pres- cribed -by this or any other Act ; (iii) as to the procedure to be
followed 2[in hearing applications and appeals] under this Act ; (iy) as to the fees, costs and charges to be
paid for the purposes of this Act ; '[not- withstanding anything in the Court-fees Act, 18101; 1 of 1810 (v)
for the survey of lands and the preparation of a record-of-rights and of settlement of rent ; (vii) prescribing

•the



form in, which registers shall be maintained of applications and appeals disposed of under this Act ; (viii)

44. All rules made under section 43 shall be laid 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. Omitted by the Orissa Survey and Settlement (Amendment) Act, 1962 (Or. 7 of 1962), s. 34 Substituted by *ibid*, s. 34 (b) for "in applications"

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

4. Omitted by *ibid*, s. 34 of 1959] THE ORISSA SURVEY AND SETTLEMENT ACT, 1958 (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 : (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]. (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 officers under the Settlement Officers and Assistant Settlement Officers central Pro- appointed under this Act shall respectively exercise the powers and perform the functions of— appointed under (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. i. Substituted by the Orissa Survey and Settlement (Amendment) Act, 1962 {Or. Act 1962 s. 35

2. Inserted by *ibid*, s. 36. 76 THE ORISSA SURVEY AND SETTLEMENT ACT, 1958 (sec. 47) (Or. Act 47. If any difficulty arises in giving effect to the provisions of this Act, the Government may, as the occasion may require, do anything which appears to them necessary for the purpose of removing the difficulty. THE ORISSA SURVEY AND SETTLEMENT ACT, 1958 SCHEDULE ENACTMENTS REPEALED 77 Number and year of 1875 VIII of 1923 1 of 1908 11 of 1913 VI of 1929 XI of 1898 1 of 1920 xvnr of 1881 n of 1917 [1 of 1920 (See section 45) Short title 2. The Bengal Survey Act The Madras Survey and Boundaries Act. The Madras Estates Land Act. The Orissa Tenancy Act. The C. P. Settlement Act The C. P. Tenancy Act, P. Tenancy Act The C. P. Land Revenue Act. The C. P. Land Revenue Act. Bihar and Orissa Muzdar Survey Act. Extent of repeal 3 The whole The whole Chapters and IT. The provisions of other Chapters in so far as they are repugnant to the provisions of this Act. Chapters and The provisions. of other Chapters in so far as they are repugnant to the provisions of this Act. So far as its provisions are repugnant to this Act. So far as its provisions are repugnant to this Act. So far as its provisions are repugnant to this Act. So far as its provisions are repugnant to this Act. The whole] 1, Added (Amendment) Act* (Or. Act 1 of 1962), 16 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 extraordinary issue of the Orissa Gazette, dated the 5th April [1994] AN ACT OF ORISSA SURVEY AND SETTLEMENT ACT, 1958 as amended by the Legislature of the State of Orissa in the Forty fifth Year of the Republic of India as follows:— 1. This Act may be called the Orissa Survey and Settlement (Amendment) Act, 1994. Short title 2. In section 33 of the Orissa Survey and Settlement Act, 1958 for the words "an Officer not below the rank of a Revenue Divisional Commissioner", the words "any officer above the rank of a Settlement Officer" shall be substituted. * For the Bill see Orissa Gazette, Extraordinary, dated the 24th February 1994 No. 259) 40 ORISSA ACT 13 OF 1998 THE ORISSA SURVEY AND SETTLEMENT (AMENDMENT AND VALIDATION) ACT, 1998 TABLE OF CONTENTS PREAMBLE 1. Short title 2. Amendment of section 44 3. Validation 41 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 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. ENACTED BY THE LEGISLATURE OF THE STATE OF ORISSA IN THE FORTY-NINTH YEAR OF THE REPUBLIC OF INDIA AS FOLLOWS:— 1. This Act may be called the Orissa Survey and Settlement (Amendment and Short title. Validation) Act, 1998. 2.- In the Orissa Survey and Settlement Act, 1958 (hereinafter referred to as the principal Act), for section 44, the following section shall be deemed to have been 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

3. Notwithstanding anything to the contrary in the principal Act, or any valid judgment, 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 see Orissa Gazette, extraordinary, dated the 1st July 1998 (No. 841)