Legislative (1897) Department.

ORDINARY MS.

G.O., No, 39-40.

DATED 28.4.97.

INDEXED.

24/24

[Despatch Abstract.]

Madras Survey Act

Submitting copy of the Act as assented to by His Excellency the Governor for the assent of His Excy the Governor-General.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	49	Leg.	21-6-97				

[G. / 75 A. / 300—8-3-17.]

by Right

(adopted accts
Legenda Mr Hamel
accompanied them
Mr [illegible])

NOTE FOR THE SECRETARY,

Finial proof of the Survey act is Submitted for approval.

Madras act II of 1896 says that the word 'Local Govt' shall be used instead of the word 'Govt' in Local acts, to denote the Governor of Fort St George in Council.

But as the word 'Local Govt' & 'Govt' both occur in this Act, & as the Secretary has altered 'Govt' into 'Local Govt' in the last proof, I have queried the places so altered in the finial proof & the places where 'Govt' occurs in view to the alterations that may be deemed necessary, being made.

I regret that I did not notice this point Earlier.

The Draftsman writes to the Council is hastening his report; & as Soon as the MSS are received which will perhaps be tomorrow, I shall get it through the press as directed. Submit proof at a very Early date.

CRx
13/4/97 See a number of Alter corrections

In section 31(1) "shall extend" is

extended" is in proof sent.
After W Bliss used latter letter

Please see separate note slip attached.

VE 19/4/97

Press

Get a clean proof of this before Monday at 12 noon

Madras Act No. 1 of 1897.

An

BILL Act

TO

Amend the law relating to survey of lands and settlement of boundary disputes.

(As amended by the Select Committee.)

WHEREAS it is expedient to *consolidate and amend the law relating to survey of lands and settlement* of boundary disputes; It is hereby enacted as follows:—

(Preamble.)

CHAPTER I.

PRELIMINARY.

1. (1) *Title.*—This Act may be called "The Madras Survey *and Boundaries* Act, 189 ."

(Local extent.)

(2) It extends to the whole of the Presidency of Madras.

2. Act XXVIII of 1860 and Madras Act II of 1884 *and also so much of Regulation XII of 1816 as applies to cases of claims to lands or crops, the validity of which claims may depend upon the determination of an uncertain and disputed boundary or land-mark* are hereby repealed.

(Repeal.)

3. In this Act, unless there is something repugnant in the subject or context,—

(Interpretation clause.)

(i) "Estate" means—

(Madras Act II of 1894, section 4.)

("Estate.")

(*a*) any permanently-settled estate, whether a zamíndári, jágír, mitta or pálaiyam;

(*b*) any portion of such permanently-settled estate which has been separately registered in the office of the Collector;

(*c*) any unsettled pálaiyam or jágír;

(*d*) any inám village of which the grant was made or confirmed by the British Government;

has been

(*e*) any portion, consisting of one or more villages of any of the estates specified above in clauses (*a*), (*b*) and (*c*), which is held on a permanent under-tenure.

"Government land."

(ii) "Government land" means any land *not* forming an estate *or any portion thereof.*

(Madras Act II of 1894, section 4.)

"Proprietor."

(iii) "Proprietor" means any person in whose name any estate is for the time being registered in the office of the Collector of the district wherein the estate is situated, and, in respect of an estate specified in clause (*e*) *of sub-section* (i), the holder thereof.

"Registered holder"

(iv) "*Registered holder*" *means any person in whose name Government land is for the time being registered in the Collector's register.*

"Proprietor" or "registered holder" in case of joint registration.

(v) Where an estate *or Government land* is so registered in the names of two or more persons *jointly*, the proprietor *or registered holder as the case may be* shall, for the purposes of this Act, be the person who is recognized by the other joint *holders* as the manager of the estate or who, in case of dispute, is *recognized and* registered by the Collector as senior joint *holder*.

"Survey."

(vi) "Survey" includes *re-survey and* demarcation.

(Burma Act II of 1895, section 3.)

"Survey mark."

(vii) "Survey mark" means any mark heretofore or hereafter made, erected or placed for the purpose of indicating survey points or lines above, on or below the surface of any land by or by order of any person duly authorized *under an ~~Act or Regulation hereby repealed or under this Act~~* to make a survey of such land or to settle the boundaries thereof.

(Burma Act V of 1880, section 2.)

Local Government to appoint and remove Survey Officers.

4. (1) The Local Government may appoint any person *either by name or by virtue of his office* to be a Survey Officer *under this Act* and may dismiss, suspend or remove any person so appointed.

Local Government to exercise general control over Survey Officers.

(2) Subject to the control of the Local Government or of any *superior* officer *or authority* appointed by it in this behalf every person so

appointed shall exercise and perform, within such local limits as the Local Government may direct, the powers conferred and the duties imposed upon *such officer or authority respectively* by this Act or by the rules made thereunder.

Local Government may delegate such powers.

(3) The Local Government may delegate its powers under *sub-section* (1) to the Board of Revenue, and *it may also delegate to the District Collector such power to be exercised by him* for the purposes of section *23 only*.

CHAPTER II.

THE SURVEY OF GOVERNMENT LANDS.

(Bombay Act V of 1879, section 95.)

Local Government may direct survey of Government land.

5. The Local Government may, by notification, direct the survey of any Government land.

(Burma Act V of 1880, section 5.)

Notification to be published by Survey Officer.

6. (1) When the survey of any Government land has been directed under section 5, the Survey Officer shall publish a notification *inviting every person claiming to be* interested in such land *as owner or otherwise* to attend either in person or by agent at a specified place and time *~~or at any~~ time thereafter when called upon* for the purpose of pointing out boundaries and supplying information in connection therewith.

(Burma Act V of 1880, section 7.)

Such notification to be sufficient notice to persons interested.

(2) A notification published under sub-section (1) shall be held to be *a valid* notice to every person having any interest in the land about to be surveyed.

Terms of such notification.

(3) Such notification shall further require all *registered* holders of the land about to be surveyed—

(*a*) *to clear* within a specified period, by cutting down or removing any trees, jungle, fences, standing crops, or other *material* obstructions, the boundaries or other lines the clearance of which may be necessary for the purposes of the survey,

(*b*) to provide *~~within a specified time~~* labour by furnishing flagholders *and* chainmen, and

(Burma Act V of 1880, section 7.)

(c) *to construct suitable survey marks and* otherwise to *give such assistance* in the survey *as may be demanded under this Act or the rules made thereunder.*

Employment of hired labour on failure of registered holders to assist in the survey.

7. (1) If *any* person fails to comply *with any* requisition *of a Survey Officer made under clauses* (*a*), (*b*) *or* (*c*) *of sub-section* (*3*) *of section* 6, the Survey Officer may employ hired labour for the purposes of the survey.

Costs to be charged to registered holders of lands surveyed.

(2) The Survey Officer shall, in accordance with such rules as the Local Government may prescribe, apportion the cost of such *hired* labour on the lands which have been surveyed, and charge the same to the *registered* holders thereof.

Provision of survey works.

8. If the *registered* holder of *any* land under survey *fails to* provide suitable survey marks to the satisfaction of the Survey Officer, such officer may himself procure such marks and the cost of procuring them shall be apportioned and charged *as provided in* sub-section (2) of section 7.

9. *Notwithstanding anything contained in sub-section* (*3*) *of section 6 and in sub-section* (1) *of section 7, whenever it may appear to the District Collector to be desirable that the cost of the survey shall be defrayed in the first instance by Government without requiring the parties to construct such marks or provide such labour in accordance with sub-section* (*3*) *of section 6, the Survey Officer may, in lieu of the notification prescribed in sub-section* (*3*) *of section 6, issue a notification that the cost of the survey will be defrayed in the first instance by Government, and may thereupon proceed with the survey of the land and apportion and charge the cost in the manner prescribed by sub-section* (*2*) *of section 7.*

Recovery of charges incurred by Survey Officer.

10. All charges *to be* incurred by the Survey Officer shall be defrayed in the first instance by Government but *any sum charged under sections 7, 8 and 9* shall be recoverable *from the registered holder* in the same manner as *an* arrear of land revenue.

(Bombay Act V of 1879 section 119.)

Procedure where boundary is undisputed.

11. (1) If, at the time of survey, *a* boundary is undisputed, the Survey Officer may order that it shall be laid down as pointed out by the *registered* holder or *his agent.*

Procedure where boundary is disputed.

(2) If the *registered* holder is *not* present, or if the boundary is disputed, the Survey Officer shall order it to be laid down, as nearly as may be, in accordance with the village records, *or* as ascertained from the village officers and *from* such other evidence as the Survey Officer may be able to procure.

Order in disputed cases to be in writing.

(3) The order passed by the Survey Officer in the case of any dispute under sub-section (*2*) shall be recorded in writing and *the purport thereof* communicated *forthwith* to the parties to the dispute, *a copy of the order being furnished to them on their application and at their cost.*

Completion of demarcation to be notified.

(4) When the *survey* of any village or other defined local area forming part of the land under survey *has* been *completed* in accordance with the orders passed under sub-sections (*1*), (*2*) *and* (*3*), the Survey Officer shall notify *the fact as soon as practicable thereafter.*

Appeals against orders under section 11.

12. (1) *Notice of every* order passed by the Survey Officer under section *11 shall be given to all registered holders the boundaries of whose holdings may be affected by the order and* an appeal *from such order* shall lie to the authority to whom *the Survey Officer* is immediately subordinate, provided that it be filed,—

(*a*) in the case of *an order communicated under sub-section* (*3*) *of section 11* within three months of the date of the order;

(*b*) in the case of any other order, within three months of the date upon which the notification prescribed by sub-section (*4*) of section *11* was published, and

(*c*) *Where an appeal is filed notice shall be given by the appellate authority in the case of an appeal preferred under clause* (*a*) *to the other parties to the dispute, and*

in the case of an appeal preferred under clause (b) to all registered holders, the boundaries of whose holdings may be affected by the proceedings in appeal.

Appellate decision to be in writing.

(2) The decision of the appellate authority shall be recorded in writing and *the purport thereof* communicated *forthwith* to the parties *concerned, a copy of the order being furnished to them on their application and at their cost.*

Such order or appellate decision final in certain cases.

(3) The order of the Survey Officer, or in the event of an appeal being filed, the decision of the appellate authority, shall be final *and there shall be no further appeal from such decision.*

Institution of a suit in Civil Court within one year to establish rights claimed in respect of the boundary of property surveyed.

13. Any party to a boundary dispute before the Survey Officer, and any party to an appeal preferred under section 12 or to whom notice of such appeal is given, and any person claiming under any such party, deeming himself aggrieved by the order of the Survey Officer or by the decision of the appellate authority, as the case may be, may, subject to the provisions of Parts II and III of the Indian Limitation Act, 1877, institute, within the period of one year from the date of such order or decision, a suit to establish the right which he claims in respect of the boundary of the property surveyed, but subject to the result of such suit, if any, such order or decision shall be conclusive as between the parties to the dispute or to the appeal including those to whom notice of such appeal has been given, and those claiming under such parties or any of them.

EXPLANATION.—*Where parties litigate* bonâ fide *in respect of boundaries of property claimed in common for themselves and others, all persons interested in such boundary dispute shall, for the purposes of this section, be deemed to claim under parties so litigating.*

(Madras Act II of 1884, section 1).

Ryots responsible for the maintenance of survey marks.

14. Subject to such rules as the Local Government may prescribe in this behalf every *registered* holder of Government 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*

within a prescribed period the Survey Officer or the Collector may at the cost of Government maintain, renew and repair such survey marks, apportion the cost thereof, and recover such cost from the registered holder as an arrear of land revenue.

(Act XXVIII of 1860, section 26.)

Duties of village officers in this respect.

15. It shall be the duty of every village headman and of every village accountant—

(*a*) to prevent the destruction, injury, or alteration of any survey mark, on or within the limits of his jurisdiction; and

(*b*) when he becomes aware that any such mark has been destroyed, injured, or altered, to report the fact to his immediate official superior or the nearest Survey Officer having jurisdiction.

Order imposing charges to be communicated to persons affected.

16. (1) Every order of a Survey Officer or of a Collector imposing charges under sections *7, 8, 9 and 14* shall be recorded in writing and *an account prepared in accordance therewith* communicated *forthwith* to the persons affected; *a copy of the order being supplied to them on their application and at their cost.*

Appellate authority.

(2) An appeal against every such order shall lie to the authority to whom the officer passing it is immediately subordinate, provided that it be filed within one month of the date of such order.

Order or appellate decision final.

(3) The order of the Survey Officer or Collector, if an appeal is not preferred, or, in the event of an appeal being filed, the decision of the appellate authority shall be final.

CHAPTER III.

THE SURVEY OF ESTATES.

Local Government may direct survey of an estate in certain cases.

17. The Local Government may, by notification, direct the survey of any estate or portion of an estate,—

(*a*) on the application in writing of the proprietor of such estate, accompanied by a written statement of his consent to defray the whole cost of the survey, or,

(*b*) *without such application* for reasons to be recorded *prior to the issue of such notification.*

Proviso.

Provided that the survey *commenced* under clause (*a*) shall be stopped on *the* withdrawal by the proprietor of his application, unless the Local Government sees reason to direct the continuance of the survey in virtue of the powers conferred on it by clause (*b*).

Procedure to be observed during survey.

18. Except as hereinafter provided in sections *19* and *20*, the conduct of such survey and the proceedings of *a Survey* Officer shall, *as far as may be*, be regulated by the procedure laid down in *Chapter II* with regard to the survey of Government lands; *and the provisions contained in that Chapter in regard to appeals from the orders of a Survey Officer, the granting of copies thereof, and the effect of such orders or of the decision passed in appeals therefrom shall, as far as may be, apply to all orders passed by a Survey Officer under this Chapter and to the decisions passed in appeals against such orders.*

Cost of survey recoverable from proprietor.

19. All costs incurred by Government on account of a survey conducted under this Chapter shall be recoverable from the proprietor of the estate, the whole or a part of which has been surveyed, in the same manner as an arrear of land revenue.

Provided that the cost of a survey directed under clause (*b*) of section *17* shall be borne by Government unless otherwise *prescribed by* any law for the time being in force.

Local Government may direct apportionment of particular costs among tenants.

20. (1) On the application of the proprietor of an estate under survey, the Local Government may direct the Survey Officer to apportion among the lands which have been surveyed the whole or a specified proportion of the cost of such survey;

Apportionment how made.

(2) Such apportionment *among the lands* shall be made in accordance with such rules as the Local Government may prescribe, and shall be subject to appeal in the manner prescribed in section *16*.

Cost so apportioned recoverable by proprietor from tenants.

(3) The amount so apportioned shall be recoverable by the proprietor from the tenants concerned in the same manner as if *it* were *an* arrear of rent due *by a tenant to his landlord.*

Consequences ensuing on completion of an estate survey.

21. (i) When an estate or a portion of an estate has been surveyed in pursuance of a notification issued under section *17*, the Survey Officer shall report the completion of the survey to the District Collector and to the proprietor, and the following consequences shall thereupon ensue :—

(ii) *Subject to such rules as the Local Government may prescribe in this behalf,* every *tenant* of the land surveyed 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 within a prescribed period the Collector may, at the cost of Government, maintain, renew and repair such survey-marks and such cost shall be recoverable from the tenant in the same manner as arrears of land revenue.*

(iii) *It shall be the duty of* the headman and the accountant of every village, the whole or a part of which has been surveyed—

(*a*) to prevent the destruction, injury, or alteration of any survey-mark on or within the limits of their village, and

(*b*) when *he becomes* aware that any such mark has been destroyed, injured, or altered, to report the fact to the proprietor of the estate *and to the Collector.*

CHAPTER IV.

The Settlement of Boundary Disputes arising otherwise than in the course of a survey.

Collector may direct settlement of boundary dispute.

22. The District Collector may,—

(*a*) of his own motion, or,

(*b*) on the application of any of the disputants,

direct that any dispute, arising otherwise than in the course of a survey, as to the boundaries of any land shall be decided under the provisions of this Act.

Officer by whom dispute may be settled.

23. (1) Unless the Local Government or the Board of Revenue appoints a Survey Officer under section 4 for the purpose of settling such dispute, the District Collector shall thereupon—

(*a*) proceed to deal therewith himself, or,

(*b*) if empowered under sub-section (3) of section 4, appoint one of his subordinates not below the rank of Deputy Tahsildar as Survey Officer to deal therewith.

(2) Any officer to whom any dispute is referred for disposal by the Collector under sub-section (1) may either dispose of it himself or refer it for disposal to any officer subordinate to himself not being below the rank of Deputy Tahsildar, and such subordinate officer shall be a Survey Officer for the purposes of this Act.

Inquiry regarding dispute.

24. (1) The District Collector or Survey Officer, as the case may be, shall, after giving due notice of the time and place at which his inquiry will be held, proceed to investigate the claims of the various parties and record the evidence of all persons examined by him.

Decision and demarcation in accordance therewith.

(2) At the close of the investigation, he shall record in writing his decision and the reasons upon which it is based, and, after duly informing the parties of the same, and intimating to them the date on which he intends to demarcate according to his decision, shall proceed to mark out the requisite boundaries conformably therewith.

Completion of demarcation to be intimated to parties.

(3) The date on which the demarcation is completed shall be entered on the record of the case and forthwith communicated to the parties.

Decision when final.

(4) The decision so arrived at shall be final unless reversed or modified by the decree of a Civil Court, *provided that in the case of an order passed by an officer below the rank of a Collector such decision shall be submitted to the Collector who after giving notice to the parties concerned and hearing them if they appear shall either confirm it or pass such other order as he may deem fit.*

25. The provisions of section 13 shall apply mutatis mutandis *to any final decision passed under the preceding section.*

Recovery of cost of ~~Settlement~~ survey in cases of dispute settled under this chapter.

26. (1) In the case of any dispute settled under the provisions of this Chapter, the costs of *survey* shall be apportioned by the District Collector or the Survey Officer, in accordance with such rules as the Local Government may prescribe, among the parties to the dispute.

in the case of / Please to be the local? / in the first instance be defrayed by Government and shall then / and the amount so apportioned to each party shall be recoverable from him as an arrear of land revenue.

(2) Appeals against orders passed under sub-section (1) shall be governed by the provisions of section *16*.

27. The provisions of *Chapters II or III as the case may be* shall, *so far as they relate to the* maintenance, *renewal and construction* of survey-marks, *apply to marks erected under this chapter.*

CHAPTER V.

MISCELLANEOUS.

(Act XXVIII of 1860, section 28, and Burma Act V of 1880, section 15.)

Power to enter upon and examine lands.

28. For the purposes of any survey, inquiry or other proceeding under this Act, the Survey Officer or *the* District Collector *or any of the* subordinates *of such officers, shall have power* to enter upon, examine and measure any land *under survey.*

or for the purpose of rendering assistance in the survey of any land in which such person has an interest / any person / for summoning and enforcing the attendance of witnesses

Power to summon witnesses and require production of documents.

29. Any Survey Officer generally or specially authorized in that behalf, or the District Collector, or any officer to whom an appeal is preferred under any of the provisions of this Act, may, for the purposes of any survey, inquiry or other proceeding under this Act, summon and enforce the attendance of ~~parties and witnesses~~, *for giving evidence and for* the production of documents; *and the procedure prescribed* in the Code of Civil Procedure *in such behalf and for the recording of the evidence of the witnesses and parties shall be followed as far as it can be made applicable.*

(Burma Act V of 1880, section 16.)

Reference to arbitration.

30. (1) The District Collector or Survey Officer may, with the consent of all the parties concerned, refer to arbitration any dispute as to a boundary.

Procedure in such cases.

(2) The procedure laid down in Chapter XXXVII of the Code of Civil Procedure shall thereupon apply (as far as may be.)

(3) *The decision of the District Collector or the Survey Officer passed in accordance with such award shall be conclusive between the parties to such arbitration and those claiming under them.*

"Proprietor" or "registered holder" may recover expenses paid by him from the owner of the estate or Government land and may acquire a charge upon the land to that extent.

31. (i) *A "proprietor" or "registered holder" of an "estate," or "Government land", under survey who incurs any expenses under this Act in respect of*

such survey, or from whom the expenses of such survey are recovered under this Act, shall, if he be not the owner thereof, acquire a charge on such estate, or Government land, to the extent of the expenses so incurred, or recovered from him with interest thereon at the rate of nine per cent. per annum, provided that, if he be a co-owner, such charge shall extend only to so much of the amount as is payable in respect of the shares of the other co-owners in such "estate" or "Government land."

Mortgagee, lessee, tenant, or owner, or co-owner may pay charges payable by proprietor or registered holder.

(ii) *It shall be lawful for any person who is a mortgagee, lessee, or tenant, or who is the owner, or co-owner, or in good faith, believes himself to be the owner or co-owner, of an estate or Government land under survey, to pay the charges payable under this Act in respect of the survey of such estate or Government land, though he be not the proprietor or registered holder thereof.*

Claim of mortgagee-tenant or lessee in such case.

(iii) *A mortgagee making such payment shall be entitled to add the same to the principal money due under the mortgage at the rate of interest payable on the principal and where no such rate is fixed, at the rate of nine per cent. per annum. And a lessee or tenant making such payment shall be entitled to deduct the same with interest at the rate of nine per cent. per annum from the rent then due, or thereafter becoming due, in respect of such estate or Government land.*

Section 72, Clause (*e*), Transfer of Property Act.

Section 35 of the Madras Revenue Recovery Act II of 1864.

Co-owner similarly to acquire a charge upon the land.

(iv) *A co-owner or a person who, in good faith, deems himself to be owner or co-owner, making such payment, shall acquire a charge on such estate or Government land for the amount so paid by him with interest thereon at the rate of nine per cent. per annum; provided that in the case of a co-owner such charge shall extend only to so much of the amount paid as is due in respect of the shares of the other co-owners in such estate or Government land.*

(Burma Act V of 1880, section 32.)

Local Government may make subsidiary rules.

32. The Local Government may, after previous publication, make rules consistent with this Act—

(*a*) *for prescribing in different localities the unit of survey, the sub-divisions thereof, and the description of the survey marks; and for the maintenance, renewal and repair of such marks;*

(*b*) for the collection and record of any information in respect of any *surveyed* land;

(*c*) prescribing and limiting the powers and duties of officers conducting proceedings under this Act *and for regulating their procedure*;

(*d*) for the publication of all notifications *issued under this Act, and for the* issue and service of all *orders, communications* and notices to be issued, *communicated, given* or served under this Act;

(*e*) *for the apportionment of all charges directed to be apportioned by this Act;*

(*f*) *prescribing the fees payable for processes issued and copies granted under this Act; and*

(*g*) generally for carrying out the purposes of this Act.

Immunity for acts done in good faith or purporting to be so done.

33. No suit *or other legal proceedings* shall lie against any *person* for anything in good faith done *or purporting to be done* under this Act.

Government of Fort St. George.

LEGISLATIVE (1897) DEPARTMENT.

—

A

BILL

TO

Amend the law relating to survey and the settlement of boundary disputes.

(As amended by the Select Committee).

MADRAS ACT No. OF 1897.

An Act to amend the law relating to survey of lands and settlement of boundary disputes.

WHEREAS it is expedient to consolidate and amend the law relating to survey of lands and settlement of boundary disputes; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called "The Madras Survey and Boundaries Act, 189 ." Title.

(2) It extends to the whole of the Presidency of Madras. Local extent.

2. Act XXVIII of 1860 and Madras Act II of 1884 and also so much of Regulation XII of 1816 as applies to cases of claims to lands or crops, the validity of which claims may depend upon the determination of an uncertain and disputed boundary or land-mark are hereby repealed. Repeal.

3. In this Act, unless there is something repugnant in the subject or context,— Interpretation clause.

(i) "Estate" means— "Estate."

(Madras Act II of 1894, section 4.)

(*a*) any permanently-settled estate, whether a zamíndári, jágír, mitta or pálaiyam;

(*b*) any portion of such permanently-settled estate which has been separately registered in the office of the Collector;

(*c*) any unsettled pálaiyam or jágír;

(*d*) any inám village of which the grant was made or has been confirmed by the British Government;

(*e*) any portion, consisting of one or more villages of any of the estates specified above in clauses (*a*), (*b*) and (*c*), which is held on a permanent under-tenure.

(ii) "Government land" means any land not forming an estate or any portion thereof. "Government land."

(Madras Act II of 1894, section 4.)

(iii) "Proprietor" means any person in whose name any estate is for the time being registered in the office of the Collector of the district wherein the estate is situated, and, in respect of an estate specified in clause (*e*) of sub-section (i), the holder thereof. "Proprietor."

(iv) "Registered holder" means any person in whose name Government land is for the time being registered in the Collector's register. "Registered holder."

(v) Where an estate or Government land is so registered in the names of two or more persons jointly, the proprietor or registered holder, as the case may be, shall, for the purposes of this Act, be the person who is recognized by the other joint holders as the manager of the estate or who, in case of dispute, is recognised by the Collector as senior joint holder. "Proprietor" or "registered holder" in case of joint registration.

(vi) "Survey" includes re-survey and demarcation. "Survey."

(Burma Act II of 1895, section 3.)

(vii) "Survey mark" means any mark or thing heretofore or hereafter made, erected or placed for the purpose of indicating survey points or lines above, on or below the surface of any land by or by order of any person duly authorized under any enactment for the time being in force to make a survey of such land or to settle the boundaries thereof. "Survey mark."

(Burma Act V of 1880, section 2.)

4. (1) The Local Government may appoint any person either by name or by virtue of his office to be a Survey Officer under this Act and may dismiss, suspend or remove any person so appointed. Local Government to appoint and remove Survey Officers.

Local Government to exercise general control over Survey Officers.

Local Government may delegate such powers.

(2) Subject to the control of the Local Government and of any superior officer or authority appointed by it in this behalf every person so appointed shall exercise and perform the powers and duties of a Survey Officer within such local limits as the Local Government may direct.

(3) The Local Government may delegate its powers under sub-section (1) to the Board of Revenue, and it may also delegate to the District Collector such power to be exercised by him for the purposes of section 23 only.

CHAPTER II.

THE SURVEY OF GOVERNMENT LANDS.

Local Government may direct survey of Government land.

5. The Local Government may, by notification, direct the survey of any Government land. (Bombay Act V of 1879, section 91.)

Notification to be published by Survey Officer.

6. (1) When the survey of any Government land has been directed under section 5, the Survey Officer shall publish a notification inviting every person claiming to be interested in such land as registered holder or otherwise 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. (Burma Act V of 1880, section 5.)

Such notification to be notice to persons interested.

(2) A notification published under sub-section (1) shall be held to be a valid notice to every person having any interest in the land about to be surveyed.

Terms of such notification.

(3) Such notification shall further require all registered holders of the land about to be surveyed— (Burma Act V of 1880, section 7.)

(*a*) to clear within a specified period, by cutting down or removing any trees, jungle, fences, standing crops, or other material obstructions, the boundaries or other lines the clearance of which may be necessary for the purposes of the survey,

(*b*) to provide labour at such times and for such periods as may from time to time be required by furnishing flag-holders and chainmen, and

(*c*) to provide suitable survey marks and otherwise to give such assistance in the survey as may be demanded under this Act or the rules made thereunder.

Employment of hired labour on failure of registered holders to assist in the survey.

7. (1) If any person fails to comply with any requisition of a Survey Officer made under clauses (*a*), (*b*) or (*c*) of sub-section (3) of section 6, the Survey Officer may employ hired labour for the purposes of the survey. (Burma Act V of 1880, section 7.)

Costs to be charged to registered holders of lands surveyed.

(2) The Survey Officer shall, in accordance with such rules as the Local Government may prescribe, apportion the cost of such hired labour on the lands which have been surveyed, and charge the same to the registered holders thereof.

Provision of survey marks.

8. If the registered holder of any land, which has been or is about to be surveyed, fails to provide suitable survey marks to the satisfaction of the Survey Officer, such officer may himself provide or make such marks and the cost of providing or making them shall be apportioned and charged as provided in sub-section (2) of section 7.

Cost of survey may be defrayed in the first instance by Local Government in certain cases.

9. Notwithstanding anything contained in sub-section (3) of section 6 and in sub-section (1) of section 7, whenever it may appear to the District Collector to be desirable that the cost of all or any of the operations prescribed in clauses (*a*), (*b*) and (*c*) of sub-section (3) of section 6 shall be defrayed in the first instance by the Local Government, the Survey Officer may, in lieu of the notification prescribed in sub-section (3) of section (6), issue a notification that such cost will be defrayed in the

first instance by Government, and may thereupon proceed with the survey of the land and apportion and charge such cost in the manner prescribed by sub-section (2) of section 7.

Recovery of charges incurred by Survey Officer.

10. The cost of hired labour under sub-section (1) of section 7 and of providing survey marks under section 8 shall be defrayed in the first instance by the Local Government, but any sum charged under sections 7, 8 or 9 to the registered holder shall be recoverable from him in the same manner as an arrear of land revenue.

Procedure where boundary is undisputed.

(Bombay Act V of 1879, section 119.)

11. (1) If, at the time of survey, a boundary is undisputed, the Survey Officer may order that it shall be laid down as pointed out by the registered holder or his agent.

Procedure where boundary is disputed.

(2) If the registered holder is not present, or if the boundary is disputed, the Survey Officer shall order it to be laid down, as nearly as may be, in accordance with the village records, or as ascertained from the village officers and from such other evidence as the Survey Officer may be able to procure.

Order in disputed cases to be in writing.

(3) The order passed by the Survey Officer in the case of any dispute under sub-section (2) shall be recorded in writing and the purport thereof communicated forthwith to the parties to the dispute, a copy of the order being furnished to them on their application and at their cost.

Completion of demarcation to be notified.

(4) When the survey of any village or other defined local area forming part of the land under survey has been completed in accordance with the orders passed under sub-sections (1), (2) and (3), the Survey Officer shall notify the fact as soon as practicable thereafter.

Appeals against orders under section 11.

12. (1) Notice of every order passed by the Survey Officer under section 11 shall be given to all registered holders the boundaries of whose holdings may be affected by the order and an appeal from such order shall lie to the authority to whom the Survey Officer is immediately subordinate, provided that it be filed,—

(*a*) in the case of an order communicated under sub-section (3) of section 11, within three months of the date of the order;

(*b*) in the case of any other order, within three months of the date upon which the notification prescribed by sub-section (4) of section 11 was published, and,

(*c*) where an appeal is filed, notice shall be given by the appellate authority, in the case of an appeal preferred under clause (*a*), to the other parties to the dispute, and, in the case of an appeal preferred under clause (*b*), to all registered holders, the boundaries of whose holdings may be affected by the proceedings in appeal.

Appellate decision to be in writing.

(2) The decision of the appellate authority shall be recorded in writing and the purport thereof communicated forthwith to the parties concerned, a copy of the order being furnished to them on their application and at their cost.

Such order or appellate decision final in certain cases.

(3) The order of the Survey Officer, or in the event of an appeal being filed, the decision of the appellate authority, shall be final and there shall be no further appeal from such decision.

Institution of a suit in Civil Court within one year to establish rights claimed in respect of the boundary of property surveyed.

13. Any party to a boundary dispute before the Survey Officer, and any party to an appeal preferred under section 12 or to whom notice of such appeal is given, and any person claiming under any such party, deeming himself aggrieved by the order of the Survey Officer or by the decision of the appellate authority, as the case may be, may, subject to the provisions of Parts II and III of the Indian Limitation Act, 1877, institute, within the period of one year from the date of such order or decision, a suit to establish the right which he claims in respect of the boundary of the property surveyed, provided that, subject to the result of such suit, if any, such order or decision shall be conclusive as between the parties to the dispute or to the appeal including those to whom notice of such appeal has been given, and those claiming under such parties or any of them.

Explanation.—Where parties litigate *bonâ fide* in respect of boundaries of property claimed in common for themselves and others, all persons interested in such boundary dispute shall, for the purposes of this section, be deemed to claim under parties so litigating.

Ryots responsible for the maintenance of survey marks.

14. Subject to such rules as the Local Government may prescribe in this behalf every registered holder of Government 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 within a prescribed period the Survey Officer or the Collector may at the cost of Government maintain, renew and repair such survey marks, apportion the cost thereof, and recover such cost from the registered holder as an arrear of land revenue; provided that the Local Government may from time to time exempt, by a notification, any local area from the operation of the former part of this section, and cancel such notification. (Madras Act II of 1884, section 1).

Duties of village officers in this respect.

15. It shall be the duty of every village headman and of every village accountant— (Burma Act IV of 1880, section 27.)

(*a*) to prevent the destruction, injury, or alteration of any survey mark on or within the limits of his jurisdiction; and

(*b*) when he becomes aware that any such mark has been destroyed, injured, or altered, to report the fact to his immediate official superior or the nearest Survey Officer having jurisdiction.

Order imposing charges to be communicated to persons affected.

Appellate authority.

Order or appellate decision final.

16. (1) Every order of a Survey Officer or of a Collector imposing charges under sections 7, 8, 9 and 14 shall be recorded in writing and an account prepared in accordance therewith communicated forthwith to the persons affected; a copy of the order being supplied to them on their application and at their cost. (Act XXVIII of 1860, section 26.)

(2) An appeal against every such order shall lie to the authority to whom the officer passing it is immediately subordinate, provided that it be filed within one month of the date of such order.

(3) The order of the Survey Officer or Collector, if an appeal is not preferred, or, in the event of an appeal being filed, the decision of the appellate authority, shall be final.

CHAPTER III.

The Survey of Estates.

Local Government may direct survey of an estate in certain cases.

17. The Local Government may, by notification, direct the survey of any estate or portion of an estate,—

(*a*) on the application in writing of the proprietor of such estate, accompanied by a written statement of his consent to defray the whole cost of the survey, or,

(*b*) without such application for reasons to be recorded prior to the issue of such notification.

Proviso.

Provided that a survey commenced under clause (*a*) shall be stopped on the withdrawal by the proprietor of his application, unless the Local Government sees reason to direct the continuance of the survey in virtue of the powers conferred on it by clause (*b*).

Procedure to be observed during survey.

18. Except as hereinafter provided in sections 19 and 20, the conduct of such survey and the proceedings of a Survey Officer shall, as far as may be, be regulated by the procedure laid down in Chapter II with regard to the survey of Government lands; and the provisions contained in that Chapter in regard to appeals from the orders of a Survey Officer, the granting of copies thereof, and the effect of such orders and of the decision passed in appeals therefrom, shall as far as may be, apply to all orders passed by a Survey Officer under this Chapter and to the decisions passed in appeals against such orders.

Cost of survey recoverable from proprietor.

19. All costs incurred by Government on account of a survey conducted under this Chapter shall be recoverable from the proprietor of the estate, the whole or a part of which has been surveyed, in the same manner as an arrear of land revenue.

Provided that the cost of a survey directed under clause (*b*) of section 17 shall be borne by Government unless otherwise prescribed by any law for the time being in force.

Local Government may direct apportionment of particular costs among tenants.

20. (1) On the application of the proprietor of an estate under survey, the Local Government may direct the Survey Officer to apportion among the lands which have been surveyed the whole or a specified proportion of the cost of such survey; provided that the cost so apportioned shall not exceed the amount which would be chargeable to such lands under sections 7, 8 and 9 if they were Government lands.

Apportionment how made.

(2) Such apportionment among the lands shall be made in accordance with such rules as the Local Government may prescribe, and shall be subject to appeal in the manner prescribed in section 16.

Cost so apportioned recoverable by proprietor from tenants.

(3) The amount so apportioned shall be recoverable by the proprietor from the tenants concerned in the same manner as if it were an arrear of rent due by a tenant to his landlord.

Consequences ensuing on completion of an estate survey.

21. (i) When an estate or a portion of an estate has been surveyed in pursuance of a notification issued under section 17, the Survey Officer shall report the completion of the survey to the District Collector and to the proprietor, and the following consequences shall thereupon ensue :—

(ii) Subject to such rules as the Local Government may prescribe in this behalf, every tenant of the land surveyed 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 within a prescribed period, the Collector may, at the cost of Government, maintain, renew and repair such survey-marks and such cost shall be recoverable from the tenant in the same manner as arrears of land revenue.

(iii) It shall be the duty of the headman and of the accountant of every village the whole or a part of which has been surveyed—

(*a*) to prevent the destruction, injury, or alteration of any survey-mark on or within the limits of his village, and

(*b*) when he becomes aware that any such mark has been destroyed, injured, or altered, to report the fact to the proprietor of the estate and to the Collector or to such officer subordinate to the Collector as the District Collector may from time to time direct.

CHAPTER IV.

The Settlement of Boundary Disputes arising otherwise than in the course of a survey.

District Collector may direct settlement of boundary dispute.

22. The District Collector may,—

(*a*) of his own motion, or,

(*b*) on the application of any of the disputants,

direct that any dispute, arising otherwise than in the course of a survey, as to the boundaries of any land, shall be decided under the provisions of this Act.

Officer by whom dispute may be settled.

23. (1) Unless the Local Government or the Board of Revenue appoints a Survey Officer under section 4 for the purpose of settling such dispute, the District Collector shall thereupon—

(*a*) proceed to deal therewith himself, or,

(*b*) if empowered under sub-section (3) of section 4, appoint one of his subordinates not below the rank of Deputy Tahsildar as Survey Officer to deal therewith.

(2) Any officer to whom any dispute is referred for disposal by the Collector under sub-section (1) may either dispose of it himself or refer it for disposal to any officer subordinate to himself not being below the rank of Deputy Tahsildar, and such subordinate officer shall be a Survey Officer for the purposes of this Act.

Inquiry regarding dispute.

24. (1) The District Collector or Survey Officer, as the case may be, shall, after giving due notice of the time and place at which his inquiry will be held, proceed to investigate the claims of the various parties and record the evidence of all persons examined by him.

Decision and demarcation in accordance therewith.

(2) At the close of the investigation, he shall record in writing his decision and the reasons upon which it is based, and, after duly informing the parties of the same, and intimating to them the date on which he intends to demarcate according to his decision, shall proceed to mark out the requisite boundaries conformably therewith.

Completion of demarcation to be intimated to parties.

(3) The date on which the demarcation is completed shall be entered on the record of the case and forthwith communicated to the parties.

Decision when final.

(4) The decision so arrived at shall be final unless reversed or modified by the decree of a Civil Court, provided that in the case of an order passed by an officer below the rank of a Collector such decision shall be submitted to the Collector who after giving notice to the parties concerned and hearing them if they appear shall either confirm it or pass such other order as he may deem fit.

25. The provisions of section 13 shall apply *mutatis mutandis* in the case of any final decision passed under the preceding section.

Recovery of cost of survey in cases of dispute settled under this chapter.

26. (1) In the case of any dispute settled under the provisions of this Chapter, the costs of survey shall in the first instance be defrayed by the local Government and shall then be apportioned by the District Collector or the Survey Officer, in accordance with such rules as the Local Government may prescribe, among the parties to the dispute; and the amount so apportioned to each party shall be recoverable from him as an arrear of land revenue.

(2) Appeals against orders passed under sub-section (1) shall be governed by the provisions of section 16.

27. The provisions of Chapters II or III, as the case may be, shall, so far as they relate to the maintenance, renewal and construction of survey-marks, apply to marks erected under this chapter.

CHAPTER V.

MISCELLANEOUS.

Power to enter upon and examine lands.

28. For the purposes of any survey, inquiry or other proceeding under this Act, the Survey Officer or the District Collector or any of the subordinates of such officers, shall have power to enter upon, examine and measure any land under survey. (Act XXVIII of 1860, section 28, and Burma Act V of 1880, section 15.)

Power to summon witnesses and require production of documents.

29. Any Survey Officer generally or specially authorized in that behalf, or the District Collector, or any officer to whom an appeal is preferred under any of the provisions of this Act, may, for the purposes of any survey, inquiry or other proceeding under this Act, summon and enforce the attendance of any person for giving evidence and for the production of documents or for the purpose of rendering assistance in the survey of any land in which such person has an interest; and the procedure prescribed in the Code of Civil Procedure for summoning and enforcing the attendance of witnesses and for the recording of evidence shall be followed as far as it can be made applicable.

Reference to arbitration.

30. (1) The District Collector or Survey Officer may, with the consent of all the parties concerned, refer to arbitration any dispute as to a boundary. (Burma Act V of 1880, section 16.)

Procedure in such cases.

(2) The procedure laid down in Chapter XXXVII of the Code of Civil Procedure shall thereupon apply as far as may be.

(3) The decision of the District Collector or the Survey Officer passed in accordance with such award shall be conclusive between the parties to such arbitration and those claiming under them.

Proprietor or registered holder may recover expenses paid by him from the owner of the estate or Government land and may acquire a charge upon the land to that extent.

31. (i) A proprietor or registered holder of an estate, or Government land, under survey who incurs any expenses under this Act in respect of such survey, or from whom the expenses of such survey are recovered under this Act, shall, if he be not the owner thereof, acquire a charge on such estate, or Government land, to the extent of the expenses so incurred, or recovered from him with interest thereon at the rate of nine per cent. per annum, provided that, if he be a co-owner of such estate or Government land, such charge shall be extended only to so much of the amount of such expenses as is payable in respect of the shares of the other co-owners in such estate or Government land.

Mortgagee, lessee, tenant, or owner, or co-owner may pay charges payable by proprietor or registered holder.

(ii) It shall be lawful for any person who is a mortgagee, lessee, or tenant, or who is the owner, or co-owner, or in good faith, believes himself to be the owner or co-owner, of an estate or Government land under survey, to pay the charges payable under this Act in respect of the survey of such estate or Government land, though he be not the proprietor or registered holder thereof.

Claim of mortgagee, tenant or lessee in such case.

(iii) A mortgagee making such payment shall be entitled to add the same to the principal money due under the mortgage at the rate of interest payable on the principal and where no such rate is fixed, at the rate of nine per cent. per annum. And a lessee or tenant making such payment shall be entitled to deduct the same with interest at the rate of nine per cent. per annum from the rent then due, or thereafter becoming due, in respect of such estate or Government land.

Section 72, clause (*e*), Transfer of Property Act. Section 35 of the Madras Revenue Recovery Act II of 1864.

Co-owner similarly to acquire a charge upon the land.

(iv) A co-owner or a person who, in good faith, deems himself to be owner or co-owner, making such payment, shall acquire a charge on such estate or Government land for the amount so paid by him with interest thereon at the rate of nine per cent. per annum; provided that in the case of a co-owner such charge shall extend only to so much of the amount paid as is due in respect of the shares of the other co-owners in such estate or Government land.

Local Government may make rules under the Act

32. The Local Government may make rules consistent with this Act— (Burma Act V of 1880, section 32.)

(*a*) prescribing for different localities the unit of survey, the sub-divisions thereof, and the description of the survey marks; and for the maintenance, renewal and repair of such marks;

(*b*) for the collection and record of any information in respect of any land which has been or is about to be surveyed;

(*c*) prescribing and limiting the powers and duties of officers conducting proceedings under this Act and for regulating their procedure;

(*d*) for the publication of all notifications issued under this Act, and for the issue and service of all orders, communications and notices to be issued, communicated, given or served under this Act;

(*e*) for the apportionment of all charges directed to be apportioned by this Act;

(*f*) prescribing the fees payable for processes issued and copies granted under this Act; and

(*g*) generally for carrying out the purposes of this Act;

and all such rules shall be published in the *Fort St. George Gazette* and shall thereupon have the force of law.

(new line)

Immunity for acts done in good faith or purporting to be so done

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

MADRAS ACT No. OF 1897.

An Act to amend the law relating to survey of lands and settlement of boundary disputes.

WHEREAS it is expedient to consolidate and amend the law relating to survey of lands and settlement of boundary disputes; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called "The Madras Survey and Boundaries Act, 189 ." Title.

(2) It extends to the whole of the Presidency of Madras. Local extent.

2. Act XXVIII of 1860 and Madras Act II of 1884 and also so much of Regulation XII of 1816 as applies to cases of claims to lands or crops, the validity of which claims may depend upon the determination of an uncertain and disputed boundary or land-mark are hereby repealed. Repeal.

3. In this Act, unless there is something repugnant in the subject or context,— Interpretation clause.

(i) "Estate" means— "Estate."

(Madras Act II of 1894, section 4.)

(*a*) any permanently-settled estate, whether a zamíndári, jágír, mitta or pálaiyam;

(*b*) any portion of such permanently-settled estate which has been separately registered in the office of the Collector;

(*c*) any unsettled pálaiyam or jágír;

(*d*) any inám village of which the grant was made or has been confirmed by the British Government;

(*e*) any portion, consisting of one or more villages of any of the estates specified above in clauses (*a*), (*b*) and (*c*), which is held on a permanent under-tenure.

(ii) "Government land" means any land not forming an estate or any portion thereof. "Government land."

(Madras Act II of 1894, section 4.)

(iii) "Proprietor" means any person in whose name any estate is for the time being registered in the office of the Collector of the district wherein the estate is situated, and, in respect of an estate specified in clause (*e*) of sub-section (i), the holder thereof. "Proprietor."

(iv) "Registered holder" means any person in whose name Government land is for the time being registered in the Collector's register. "Registered holder."

(v) Where an estate or Government land is so registered in the names of two or more persons jointly, the proprietor or registered holder, as the case may be, shall, for the purposes of this Act, be the person who is recognized by the other joint holders as the manager of the estate or who, in case of dispute, is recognized by the Collector as senior joint holder. "Proprietor" or "registered holder" in case of joint registration.

(vi) "Survey" includes re-survey and demarcation. "Survey."

(Burma Act II of 1895, section 3.)

(vii) "Survey mark" means any mark or thing heretofore or hereafter made, erected or placed for the purpose of indicating survey points or lines above, on or below the surface of any land by or by order of any person duly authorized under any enactment for the time being in force to make a survey of such land or to settle the boundaries thereof. "Survey mark."

(Burma Act V of 1880, section 2.)

4. (1) The Local Government may appoint any person either by name or by virtue of his office to be a Survey Officer under this Act and may dismiss, suspend or remove any person so appointed. Local Government to appoint and remove Survey Officers.

Local Government to prescribe local limits of Survey Officers.

(2) Subject to the control of the Local Government and of any superior officer or authority appointed by it in this behalf every person so appointed shall exercise and perform the powers and duties of a Survey Officer within such local limits as the Local Government may direct.

Local Government may delegate powers of control.

(3) The Local Government may delegate its powers under sub-section (1) to the Board of Revenue, and it may also delegate to the District Collector such power to be exercised by him for the purposes of section 23 only.

CHAPTER II.

The survey of Government lands.

Local Government may direct survey of Government land.

5. The Local Government may, by notification, direct the survey of any Government land. (Bombay Act V of 1879, section 95.)

Notification to be published by Survey Officer.

6. (1) When the survey of any Government land has been directed under section 5, the Survey Officer shall publish a notification inviting every person claiming to be interested in such land as registered holder or otherwise 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. (Burma Act V of 1880, section 5.)

Such notification to be valid notice to persons interested.

(2) A notification published under sub-section (1) shall be held to be a valid notice to every person having any interest in the land about to be surveyed.

Terms of such notification.

(3) Such notification shall further require all registered holders of the land about to be surveyed— (Burma Act V of 1880, section 7.)

(*a*) to clear within a specified period, by cutting down or removing any trees, jungle, fences, standing crops, or other material obstructions, the boundaries or other lines the clearance of which may be necessary for the purposes of the survey,

(*b*) to provide labour at such times and for such periods as may from time to time be required by furnishing flag-holders and chainmen, and

(*c*) to provide suitable survey marks and otherwise to give such assistance in the survey as may be demanded under this Act or the rules made thereunder.

Employment of hired labour on failure of registered holders to assist in the survey.

7. (1) If any person fails to comply with any requisition of a Survey Officer made under clauses (*a*), (*b*) or (*c*) of sub-section (3) of section 6, the Survey Officer may employ hired labour for the purposes of the survey. (Burma Act V of 1880, section 7.)

Costs to be charged to registered holders of lands surveyed.

(2) The Survey Officer shall, in accordance with such rules as the Local Government may prescribe, apportion the cost of such hired labour on the lands which have been surveyed, and charge the same to the registered holders thereof.

Provision of survey marks.

8. If the registered holder of any land, which has been or is about to be surveyed, fails to provide suitable survey marks to the satisfaction of the Survey Officer, such officer may himself provide or make such marks and the cost of providing or making them shall be apportioned and charged as provided in sub-section (2) of section 7.

Cost of survey operations may be defrayed in the first instance by Local Government in certain cases.

9. Notwithstanding anything contained in sub section (3) of section 6 and in sub-section (1) of section 7, whenever it may appear to the District Collector to be desirable that the cost of all or any of the operations prescribed in clauses (*a*), (*b*) and (*c*) of sub-section (3) of section 6 shall be defrayed in the first instance by the Local Government, the Survey Officer may, in lieu of the notification prescribed in sub-section (3) of section (6), issue a notification that such cost will be defrayed in the

first instance by the Local Government, and may thereupon proceed with the survey of the land and apportion and charge such cost in the manner prescribed by sub-section (2) of section 7.

Recovery of charges incurred by Survey Officer.

10. The cost of hired labour under sub-section (1) of section 7 and of providing survey marks under section 8 shall be defrayed in the first instance by the Local Government, but any sum charged under sections 7, 8 or 9 to the registered holder shall be recoverable from him in the same manner as an arrear of land revenue.

Procedure where boundary is undisputed.

(Bombay Act V of 1879, section 119.)

11. (1) If, at the time of survey, a boundary is undisputed, the Survey Officer may order that it shall be laid down as pointed out by the registered holder or his agent.

Procedure where boundary is disputed.

(2) If the registered holder is not present, or if the boundary is disputed, the Survey Officer shall order it to be laid down, as nearly as may be, in accordance with the village records, or as ascertained from the village officers and from such other evidence as the Survey Officer may be able to procure.

Order in disputed cases to be in writing.

(3) The order passed by the Survey Officer in the case of any dispute under sub-section (2) shall be recorded in writing and the purport thereof communicated forthwith to the parties to the dispute, a copy of the order being furnished to them on their application and at their cost.

Completion of demarcation to be notified.

(4) When the survey of any village or other defined local area forming part of the land under survey has been completed in accordance with the orders passed under sub-sections (1), (2) and (3), the Survey Officer shall notify the fact as soon as practicable thereafter.

Appeals against orders under section 11.

12. (1) Notice of every order passed by the Survey Officer under section 11 shall be given to all registered holders the boundaries of whose holdings may be affected by the order and an appeal from such order shall lie to the authority to whom the Survey Officer is immediately subordinate, provided that it be filed,—

(*a*) in the case of an order communicated under sub-section (3) of section 11, within three months of the date of the order;

(*b*) in the case of any other order, within three months of the date upon which the notification prescribed by sub-section (4) of section 11 was published, and,

(*c*) where an appeal is filed, notice shall be given by the appellate authority, in the case of an appeal preferred under clause (*a*), to the other parties to the dispute, and, in the case of an appeal preferred under clause (*b*), to all registered holders, the boundaries of whose holdings may be affected by the proceedings in appeal.

Appellate decision to be in writing.

(2) The decision of the appellate authority shall be recorded in writing and the purport thereof communicated forthwith to the parties concerned, a copy of the order being furnished to them on their application and at their cost.

Such order or appellate decision final in certain cases.

(3) The order of the Survey Officer, or in the event of an appeal being filed, the decision of the appellate authority, shall be final and there shall be no further appeal from such decision.

Institution of a suit in Civil Court within one year to establish rights claimed in respect of the boundary of property surveyed.

13. Any party to a boundary dispute before the Survey Officer, and any party to an appeal preferred under section 12 or to whom notice of such appeal is given, and any person claiming under any such party, deeming himself aggrieved by the order of the Survey Officer or by the decision of the appellate authority, as the case may be, may, subject to the provisions of Parts II and III of the Indian Limitation Act, 1877, institute, within the period of one year from the date of such order or decision, a suit to establish the right which he claims in respect of the boundary of the property surveyed, provided that, subject to the result of such suit, if any, such order or decision shall be conclusive as between the parties to the dispute or to the appeal including those to whom notice of such appeal has been given, and those claiming under such parties or any of them.

Explanation.—Where parties litigate *bonâ fide* in respect of boundaries of property claimed in common for themselves and others, all persons interested in such boundary dispute shall, for the purposes of this section, be deemed to claim under parties so litigating.

Ryots responsible for the maintenance of survey marks.

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Duties of village officers in this respect.

15. It shall be the duty of every village headman and of every village accountant— (Burma Act V of 1880, section 27.)

(*a*) to prevent the destruction, injury, or alteration of any survey mark, on or within the limits of his jurisdiction; and

(*b*) when he becomes aware that any such mark has been destroyed, injured, or altered, to report the fact to his immediate official superior or the nearest Survey Officer having jurisdiction.

Order imposing charges to be communicated to persons affected.

Appellate authority.

16. (1) Every order of a Survey Officer or of a Collector imposing charges under sections 7, 8, 9 and 14 shall be recorded in writing and an account prepared in accordance therewith communicated forthwith to the persons affected; a copy of the order being supplied to them on their application and at their cost. (Act XXVIII of 1860, section 26.)

(2) An appeal against every such order shall lie to the authority to whom the officer passing it is immediately subordinate, provided that it be filed within one month of the date of such order.

Order or appellate decision final.

(3) The order of the Survey Officer or Collector, if an appeal is not preferred, or, in the event of an appeal being filed, the decision of the appellate authority, shall be final.

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Local Government may direct survey of an estate in certain cases.

17. The Local Government may, by notification, direct the survey of any estate or portion of an estate,—

(*a*) on the application in writing of the proprietor of such estate, accompanied by a written statement of his consent to defray the whole cost of the survey, or,

(*b*) without such application for reasons to be recorded prior to the issue of such notification.

Proviso.

Provided that a survey commenced under clause (*a*) shall be stopped on the withdrawal by the proprietor of his application, unless the Local Government sees reason to direct the continuance of the survey in virtue of the powers conferred on it by clause (*b*).

Procedure to be observed during survey.

18. Except as hereinafter provided in sections 19 and 20, the conduct of such survey and the proceedings of a Survey Officer shall, as far as may be, be regulated by the procedure laid down in Chapter II with regard to the survey of Government lands; and the provisions contained in that Chapter in regard to appeals from the orders of a Survey Officer, the granting of copies thereof, and the effect of such orders and of the decision passed in appeals therefrom, shall as far as may be, apply to all orders passed by a Survey Officer under this Chapter and to the decisions passed in appeals against such orders.

Cost of survey recoverable from proprietor.

19. All costs incurred by the Local Government on account of a survey conducted under this Chapter shall be recoverable from the proprietor of the estate, the whole or a part of which has been surveyed, in the same manner as an arrear of land revenue.

Provided that the cost of a survey directed under clause (*b*) of section 17 shall be borne by the Local Government unless otherwise prescribed by any law for the time being in force.

Local Government may direct apportionment of costs among lands surveyed.

20. (1) On the application of the proprietor of an estate under survey, the Local Government may direct the Survey Officer to apportion among the lands which have been surveyed the whole or a specified proportion of the cost of such survey; provided that the cost so apportioned shall not exceed the amount which would be chargeable to such lands under sections 7, 8 and 9 if they were Government lands.

Apportionment how made.

(2) Such apportionment among the lands shall be made in accordance with such rules as the Local Government may prescribe, and shall be subject to appeal in the manner prescribed in section 16.

Cost so apportioned recoverable by proprietor from tenants.

(3) The amount so apportioned shall be recoverable by the proprietor from the tenants concerned in the same manner as if it were an arrear of rent due by a tenant to his landlord.

Consequences ensuing on completion of survey of an estate.

21. (i) When an estate or a portion of an estate has been surveyed in pursuance of a notification issued under section 17, the Survey Officer shall report the completion of the survey to the District Collector and to the proprietor, and the following consequences shall thereupon ensue :—

Duty of tenants.

(ii) Subject to such rules as the Local Government may prescribe in this behalf, every tenant of the land surveyed 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 within a prescribed period, the Collector may, at the cost of the Local Government, maintain, renew and repair such survey-marks and such cost shall be recoverable from the tenant in the same manner as an arrear of land revenue.

Duty of village officers.

(iii) It shall be the duty of the headman and of the accountant of every village, the whole or a part of which has been surveyed—

(*a*) to prevent the destruction, injury, or alteration of any survey-mark on or within the limits of his village, and

(*b*) when he becomes aware that any such mark has been destroyed, injured, or altered, to report the fact to the proprietor of the estate and to the Collector or to such officer subordinate to the Collector as the District Collector may from time to time direct.

CHAPTER IV.

The Settlement of Boundary Disputes arising otherwise than in the course of a survey.

District Collector may direct settlement of boundary dispute.

22. The District Collector may,—

(*a*) of his own motion, or,

(*b*) on the application of any of the disputants,

direct that any dispute, arising otherwise than in the course of a survey, as to the boundaries of any land, shall be decided under the provisions of this Act.

Officer by whom dispute may be settled.

23. (1) Unless the Local Government or the Board of Revenue appoints a Survey Officer under section 4 for the purpose of settling such dispute, the District Collector shall thereupon—

(*a*) proceed to deal therewith himself, or,

(*b*) if empowered under sub-section (3) of section 4, appoint one of his subordinates not below the rank of Deputy Tahsildar as Survey Officer to deal therewith.

(2) Any officer to whom any dispute is referred for disposal by the Collector under sub-section (1) may either dispose of it himself or refer it for disposal to any officer subordinate to himself not being below the rank of Deputy Tahsildar, and such subordinate officer shall be a Survey Officer for the purposes of this Act.

Inquiry regarding dispute.

24. (1) The District Collector or Survey Officer, as the case may be, shall, after giving due notice of the time and place at which his inquiry will be held, proceed to investigate the claims of the various parties and record the evidence of all persons examined by him.

Decision and demarcation in accordance therewith.

(2) At the close of the investigation, he shall record in writing his decision and the reasons upon which it is based, and, after duly informing the parties of the same, and intimating to them the date on which he intends to demarcate according to his decision, shall proceed to mark out the requisite boundaries conformably therewith.

Completion of demarcation to be intimated to parties.

(3) The date on which the demarcation is completed shall be entered on the record of the case and forthwith communicated to the parties.

Decision when final.

(4) The decision so arrived at shall be final unless reversed or modified by the decree of a Civil Court, provided that in the case of an order passed by an officer below the rank of a Collector such decision shall be submitted to the Collector who after giving notice to the parties concerned and hearing them if they appear shall either confirm it or pass such other order as he may deem fit.

25. The provisions of section 13 shall apply *mutatis mutandis* in the case of any final decision passed under the preceding section.

Recovery of cost of survey in cases of dispute settled under this chapter.

26. (1) In the case of any dispute settled under the provisions of this Chapter, the costs of survey shall in the first instance be defrayed by the Local Government and shall then be apportioned by the District Collector or the Survey Officer, in accordance with such rules as the Local Government may prescribe, among the parties to the dispute; and the amount so apportioned to each party shall be recoverable from him as an arrear of land revenue.

(2) Appeals against orders passed under sub-section (1) shall be governed by the provisions of section 16.

27. The provisions of Chapters II or III, as the case may be, shall, so far as they relate to the maintenance, renewal and construction of survey-marks, apply to marks erected under this chapter.

CHAPTER V.

MISCELLANEOUS.

Power to enter upon and examine lands.

28. For the purposes of any survey, inquiry or other proceeding under this Act, the Survey Officer or the District Collector or any of the subordinates of such officers, shall have power to enter upon, examine and measure any land under survey. (Act XXVIII of 1860, section 28, and Burma Act V of 1880, section 15.)

Power to summon witnesses and require production of documents.

29. Any Survey Officer generally or specially authorized in that behalf, or the District Collector, or any officer to whom an appeal is preferred under any of the provisions of this Act, may, for the purposes of any survey, inquiry or other proceeding under this Act, summon and enforce the attendance of any person for giving evidence and for the production of documents or for the purpose of rendering assistance in the survey of any land in which such person has an interest; and the procedure prescribed in the Code of Civil Procedure for summoning and enforcing the attendance of witnesses and for the recording of evidence shall be followed as far as it can be made applicable.

Reference to arbitration.

30. (1) The District Collector or Survey Officer may, with the consent of all the parties concerned, refer to arbitration any dispute as to a boundary. (Burma Act V of 1880, section 16.)

Procedure in such cases.

(2) The procedure laid down in Chapter XXXVII of the Code of Civil Procedure shall thereupon apply as far as may be.

(3) The decision of the District Collector or the Survey Officer passed in accordance with such award shall be conclusive between the parties to such arbitration and those claiming under them.

Proprietor or registered holder may recover expenses paid by him from the owner of the estate or Government land and may acquire a charge upon the land to that extent.

31. (i) A proprietor or registered holder of an estate, or Government land, under survey who incurs any expenses under this Act in respect of such survey, or from whom the expenses of such survey are recovered under this Act, shall, if he be not the owner thereof, acquire a charge on such estate, or Government land, to the extent of the expenses so incurred, or recovered from him, with interest thereon at the rate of nine per cent. per annum, provided that, if he be a co-owner of such estate or Government land, such charge shall extend only to so much of the amount of such expenses as is payable in respect of the shares of the other co-owners in such estate or Government land.

Mortgagee, lessee, tenant, or owner, or co-owner may pay charges payable by proprietor or registered holder.

(ii) It shall be lawful for any person who is a mortgagee, lessee, or tenant, or who is the owner, or co-owner, or in good faith, believes himself to be the owner or co-owner, of an estate or Government land under survey, to pay the charges payable under this Act in respect of the survey of such estate or Government land, though he be not the proprietor or registered holder thereof.

Claim of mortgagee tenant or lessee in such case.

(iii) A mortgagee making such payment shall be entitled to add the same to the principal money due under the mortgage at the rate of interest payable on the principal and where no such rate is fixed, at the rate of nine per cent. per annum. And a lessee or tenant making such payment shall be entitled to deduct the same with interest at the rate of nine per cent. per annum from the rent then due, or thereafter becoming due, in respect of such estate or Government land. (Section 72, clause (*e*), Transfer of Property Act. Section 35 of the Madras Revenue Recovery Act II of 1864.)

Co-owner similarly to acquire a charge upon the land.

(iv) A co-owner or a person who, in good faith, deems himself to be owner or co-owner, making such payment, shall acquire a charge on such estate or Government land for the amount so paid by him with interest thereon at the rate of nine per cent. per annum; provided that in the case of a co-owner such charge shall extend only to so much of the amount paid as is due in respect of the shares of the other co-owners in such estate or Government land.

Local Government may make rules under the Act.

32. The Local Government may make rules consistent with this Act— (Burma Act V of 1880, section 32.)

(*a*) prescribing for different localities the unit of survey, the sub-divisions thereof, and the description of the survey marks; and for the maintenance, renewal and repair of such marks;

(*b*) for the collection and record of any information in respect of any land which has been or is about to be surveyed;

(*c*) prescribing and limiting the powers and duties of officers conducting proceedings under this Act and for regulating their procedure;

(*d*) for the publication of all notifications issued under this Act, and for the issue and service of all orders, communications and notices to be issued, communicated, given or served under this Act;

(*e*) for the apportionment of all charges directed to be apportioned by this Act;

(*f*) prescribing the fees payable for processes issued and copies granted under this Act; and

(*g*) generally for carrying out the purposes of this Act;

and all such rules shall be published in the *Fort St. George Gazette* and shall thereupon have the force of law.

Immunity for acts done in good faith or purporting to be so done.

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

—

RNo. 43 A.

Ootacamund.
24th April 1897.

From

G. S. Forbes Esq

Secretary to the Madras Legislative Council

To

The Private Secretary to His Excellency the Governor

Sir

I have the honour to forward copy of the Act specified in the margin which was passed by the Madras Council for making Laws and Regulations on the 9th instant, and to request that you will be good enough to submit it to His Excellency the Governor for his assent in accordance with Rule 53 of the Council Rules.

*An Act to amend the law relating to Survey of lands & Settlement of boundary disputes.

Forwarded D.
8-4-97
24.4.97

I have the honour to be
Sir
Your most Obedient Servant

Secretary to the Legislative Council

MADRAS ACT No. OF 1897.

An Act to amend the law relating to survey of lands and settlement of boundary disputes.

WHEREAS it is expedient to consolidate and amend the law relating to survey of lands and settlement of boundary disputes; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called "The Madras Survey and Boundaries Act, 189 ." Title.

(2) It extends to the whole of the Presidency of Madras. Local extent.

2. Act XXVIII of 1860 and Madras Act II of 1884 and also so much of Regulation XII of 1816 as applies to cases of claims to lands or crops, the validity of which claims may depend upon the determination of an uncertain and disputed boundary or land-mark are hereby repealed. Repeal.

3. In this Act, unless there is something repugnant in the subject or context,— Interpretation clause.

(i) "Estate" means— "Estate."

(Madras Act II of 1894, section 4.)

(*a*) any permanently-settled estate, whether a zamíndári, jágír, mitta or pálaiyam;

(*b*) any portion of such permanently-settled estate which has been separately registered in the office of the Collector;

(*c*) any unsettled pálaiyam or jágír;

(*d*) any inám village of which the grant was made or has been confirmed by the British Government;

(*e*) any portion, consisting of one or more villages of any of the estates specified above in clauses (*a*), (*b*) and (*c*), which is held on a permanent under-tenure.

(ii) "Government land" means any land not forming an estate or any portion thereof. "Government land."

(Madras Act II of 1894, section 4.)

(iii) "Proprietor" means any person in whose name any estate is for the time being registered in the office of the Collector of the district wherein the estate is situated, and, in respect of an estate specified in clause (*e*) of sub-section (i), the holder thereof. "Proprietor."

(iv) "Registered holder" means any person in whose name Government land is for the time being registered in the Collector's register. "Registered holder."

(v) Where an estate or Government land is so registered in the names of two or more persons jointly, the proprietor or registered holder, as the case may be, shall, for the purposes of this Act, be the person who is recognized by the other joint holders as the manager of the estate or who, in case of dispute, is recognized by the Collector as senior joint holder. "Proprietor" or "registered holder" in case of joint registration.

(vi) "Survey" includes re-survey and demarcation. "Survey."

(Burma Act II of 1895, section 3.)

(vii) "Survey mark" means any mark or thing heretofore or hereafter made, erected or placed for the purpose of indicating survey points or lines above, on or below the surface of any land by or by order of any person duly authorized under any enactment for the time being in force to make a survey of such land or to settle the boundaries thereof. "Survey mark."

(Burma Act V of 1880, section 2.)

4. (1) The Local Government may appoint any person either by name or by virtue of his office to be a Survey Officer under this Act and may dismiss, suspend or remove any person so appointed. Local Government to appoint and remove Survey Officers.

Local Government to prescribe local limits of Survey Officers.

(2) Subject to the control of the Local Government and of any superior officer or authority appointed by it in this behalf every person so appointed shall exercise and perform the powers and duties of a Survey Officer within such local limits as the Local Government may direct.

Local Government may delegate powers of control.

(3) The Local Government may delegate its powers under sub-section (1) to the Board of Revenue, and it may also delegate to the District Collector such power to be exercised by him for the purposes of section 23 only.

CHAPTER II.

THE SURVEY OF GOVERNMENT LANDS.

Local Government may direct survey of Government land.

5. The Local Government may, by notification, direct the survey of any Government land. (Bombay Act V of 1879, section 95.)

Notification to be published by Survey Officer.

6. (1) When the survey of any Government land has been directed under section 5, the Survey Officer shall publish a notification inviting every person claiming to be interested in such land as registered holder or otherwise 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. (Burma Act V of 1880, section 5.)

Such notification to be valid notice to persons interested.

(2) A notification published under sub-section (1) shall be held to be a valid notice to every person having any interest in the land about to be surveyed.

Terms of such notification.

(3) Such notification shall further require all registered holders of the land about to be surveyed— (Burma Act V of 1880, section 7.)

(*a*) to clear within a specified period, by cutting down or removing any trees, jungle, fences, standing crops, or other material obstructions, the boundaries or other lines the clearance of which may be necessary for the purposes of the survey,

(*b*) to provide labour at such times and for such periods as may from time to time be required by furnishing flag-holders and chainmen, and

(*c*) to provide suitable survey marks and otherwise to give such assistance in the survey as may be demanded under this Act or the rules made thereunder.

Employment of hired labour on failure of registered holders to assist in the survey.

7. (1) If any person fails to comply with any requisition of a Survey Officer made under clauses (*a*), (*b*) or (*c*) of sub-section (3) of section 6, the Survey Officer may employ hired labour for the purposes of the survey. (Burma Act V of 1880, section 7.)

Costs to be charged to registered holders of lands surveyed.

(2) The Survey Officer shall, in accordance with such rules as the Local Government may prescribe, apportion the cost of such hired labour on the lands which have been surveyed, and charge the same to the registered holders thereof.

Provision of survey marks.

8. If the registered holder of any land, which has been or is about to be surveyed, fails to provide suitable survey marks to the satisfaction of the Survey Officer, such officer may himself provide or make such marks and the cost of providing or making them shall be apportioned and charged as provided in sub-section (2) of section 7.

Cost of survey operations may be defrayed in the first instance by Local Government in certain cases.

9. Notwithstanding anything contained in sub section (3) of section 6 and in sub-section (1) of section 7, whenever it may appear to the District Collector to be desirable that the cost of all or any of the operations prescribed in clauses (*a*), (*b*) and (*c*) of sub-section (3) of section 6 shall be defrayed in the first instance by the Local Government, the Survey Officer may, in lieu of the notification prescribed in sub-section (3) of section (6), issue a notification that such cost will be defrayed in the

first instance by the Local Government, and may thereupon proceed with the survey of the land and apportion and charge such cost in the manner prescribed by sub-section (2) of section 7.

Recovery of charges incurred by Survey Officer.

10. The cost of hired labour under sub-section (1) of section 7 and of providing survey marks under section 8 shall be defrayed in the first instance by the Local Government, but any sum charged under sections 7, 8 or 9 to the registered holder shall be recoverable from him in the same manner as an arrear of land revenue.

Procedure where boundary is undisputed.

(Bombay Act V of 1879, section 119.)

11. (1) If, at the time of survey, a boundary is undisputed, the Survey Officer may order that it shall be laid down as pointed out by the registered holder or his agent.

Procedure where boundary is disputed.

(2) If the registered holder is not present, or if the boundary is disputed, the Survey Officer shall order it to be laid down, as nearly as may be, in accordance with the village records, or as ascertained from the village officers and from such other evidence as the Survey Officer may be able to procure.

Order in disputed cases to be in writing.

(3) The order passed by the Survey Officer in the case of any dispute under sub-section (2) shall be recorded in writing and the purport thereof communicated forthwith to the parties to the dispute, a copy of the order being furnished to them on their application and at their cost.

Completion of demarcation to be notified.

(4) When the survey of any village or other defined local area forming part of the land under survey has been completed in accordance with the orders passed under sub-sections (1), (2) and (3), the Survey Officer shall notify the fact as soon as practicable thereafter.

Appeals against orders under section 11.

12. (1) Notice of every order passed by the Survey Officer under section 11 shall be given to all registered holders the boundaries of whose holdings may be affected by the order and an appeal from such order shall lie to the authority to whom the Survey Officer is immediately subordinate, provided that it be filed,—

(*a*) in the case of an order communicated under sub-section (3) of section 11, within three months of the date of the order;

(*b*) in the case of any other order, within three months of the date upon which the notification prescribed by sub-section (4) of section 11 was published, and,

(*c*) where an appeal is filed, notice shall be given by the appellate authority, in the case of an appeal preferred under clause (*a*), to the other parties to the dispute, and, in the case of an appeal preferred under clause (*b*), to all registered holders, the boundaries of whose holdings may be affected by the proceedings in appeal.

Appellate decision to be in writing.

(2) The decision of the appellate authority shall be recorded in writing and the purport thereof communicated forthwith to the parties concerned, a copy of the order being furnished to them on their application and at their cost.

Such order or appellate decision final in certain cases.

(3) The order of the Survey Officer, or in the event of an appeal being filed, the decision of the appellate authority, shall be final and there shall be no further appeal from such decision.

Institution of a suit in Civil Court within one year to establish rights claimed in respect of the boundary of property surveyed.

13. Any party to a boundary dispute before the Survey Officer, and any party to an appeal preferred under section 12 or to whom notice of such appeal is given, and any person claiming under any such party, deeming himself aggrieved by the order of the Survey Officer or by the decision of the appellate authority, as the case may be, may, subject to the provisions of Parts II and III of the Indian Limitation Act, 1877, institute, within the period of one year from the date of such order or decision, a suit to establish the right which he claims in respect of the boundary of the property surveyed, provided that, subject to the result of such suit, if any, such order or decision shall be conclusive as between the parties to the dispute or to the appeal including those to whom notice of such appeal has been given, and those claiming under such parties or any of them.

Explanation.—Where parties litigate *bonâ fide* in respect of boundaries of property claimed in common for themselves and others, all persons interested in such boundary dispute shall, for the purposes of this section, be deemed to claim under parties so litigating.

Ryots responsible for the maintenance of survey marks.

14. Subject to such rules as the Local Government may prescribe in this behalf every registered holder of Government 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 within a prescribed period the Survey Officer or the Collector may at the cost of the Local Government maintain, renew and repair such survey marks, apportion the cost thereof, and recover such cost from the registered holder as an arrear of land revenue; provided that the Local Government may from time to time exempt, by a notification, any local area from the operation of the former part of this section, and cancel such notification. (Madras Act II of 1884, section 1).

Duties of village officers in this respect.

15. It shall be the duty of every village headman and of every village accountant— (Burma Act V of 1880, section 27.)

(*a*) to prevent the destruction, injury, or alteration of any survey mark, on or within the limits of his jurisdiction; and

(*b*) when he becomes aware that any such mark has been destroyed, injured, or altered, to report the fact to his immediate official superior or the nearest Survey Officer having jurisdiction.

Order imposing charges to be communicated to persons affected.

16. (1) Every order of a Survey Officer or of a Collector imposing charges under sections 7, 8, 9 and 14 shall be recorded in writing and an account prepared in accordance therewith communicated forthwith to the persons affected; a copy of the order being supplied to them on their application and at their cost. (Act XXVIII of 1860, section 26.)

Appellate authority.

(2) An appeal against every such order shall lie to the authority to whom the officer passing it is immediately subordinate, provided that it be filed within one month of the date of such order.

Order or appellate decision final.

(3) The order of the Survey Officer or Collector, if an appeal is not preferred, or, in the event of an appeal being filed, the decision of the appellate authority, shall be final.

CHAPTER III.

The Survey of Estates.

Local Government may direct survey of an estate in certain cases.

17. The Local Government may, by notification, direct the survey of any estate or portion of an estate,—

(*a*) on the application in writing of the proprietor of such estate, accompanied by a written statement of his consent to defray the whole cost of the survey, or,

(*b*) without such application for reasons to be recorded prior to the issue of such notification.

Proviso.

Provided that a survey commenced under clause (*a*) shall be stopped on the withdrawal by the proprietor of his application, unless the Local Government sees reason to direct the continuance of the survey in virtue of the powers conferred on it by clause (*b*).

Procedure to be observed during survey.

18. Except as hereinafter provided in sections 19 and 20, the conduct of such survey and the proceedings of a Survey Officer shall, as far as may be, be regulated by the procedure laid down in Chapter II with regard to the survey of Government lands; and the provisions contained in that Chapter in regard to appeals from the orders of a Survey Officer, the granting of copies thereof, and the effect of such orders and of the decision passed in appeals therefrom, shall as far as may be, apply to all orders passed by a Survey Officer under this Chapter and to the decisions passed in appeals against such orders.

Cost of survey recoverable from proprietor.

19. All costs incurred by the Local Government on account of a survey conducted under this Chapter shall be recoverable from the proprietor of the estate, the whole or a part of which has been surveyed, in the same manner as an arrear of land revenue.

Provided that the cost of a survey directed under clause (*b*) of section 17 shall be borne by the Local Government unless otherwise prescribed by any law for the time being in force.

Local Government may direct apportionment of costs among lands surveyed.

20. (1) On the application of the proprietor of an estate under survey, the Local Government may direct the Survey Officer to apportion among the lands which have been surveyed the whole or a specified proportion of the cost of such survey; provided that the cost so apportioned shall not exceed the amount which would be chargeable to such lands under sections 7, 8 and 9 if they were Government lands.

Apportionment how made.

(2) Such apportionment among the lands shall be made in accordance with such rules as the Local Government may prescribe, and shall be subject to appeal in the manner prescribed in section 16.

Cost so apportioned recoverable by proprietor from tenants.

(3) The amount so apportioned shall be recoverable by the proprietor from the tenants concerned in the same manner as if it were an arrear of rent due by a tenant to his landlord.

Consequences ensuing on completion of survey of an estate.

21. (i) When an estate or a portion of an estate has been surveyed in pursuance of a notification issued under section 17, the Survey Officer shall report the completion of the survey to the District Collector and to the proprietor, and the following consequences shall thereupon ensue :—

Duty of tenants.

(ii) Subject to such rules as the Local Government may prescribe in this behalf, every tenant of the land surveyed 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 within a prescribed period, the Collector may, at the cost of the Local Government, maintain, renew and repair such survey-marks and such cost shall be recoverable from the tenant in the same manner as an arrear of land revenue.

Duty of village officers.

(iii) It shall be the duty of the headman and of the accountant of every village, the whole or a part of which has been surveyed—

(*a*) to prevent the destruction, injury, or alteration of any survey-mark on or within the limits of his village, and

(*b*) when he becomes aware that any such mark has been destroyed, injured, or altered, to report the fact to the proprietor of the estate and to the Collector or to such officer subordinate to the Collector as the District Collector may from time to time direct.

CHAPTER IV.

The Settlement of Boundary Disputes arising otherwise than in the course of a survey.

District Collector may direct settlement of boundary dispute.

22. The District Collector may,—

(*a*) of his own motion, or,

(*b*) on the application of any of the disputants,

direct that any dispute, arising otherwise than in the course of a survey, as to the boundaries of any land, shall be decided under the provisions of this Act.

Officer by whom dispute may be settled.

23. (1) Unless the Local Government or the Board of Revenue appoints a Survey Officer under section 4 for the purpose of settling such dispute, the District Collector shall thereupon—

(*a*) proceed to deal therewith himself, or,

(*b*) if empowered under sub-section (3) of section 4, appoint one of his subordinates not below the rank of Deputy Tahsildar as Survey Officer to deal therewith.

(2) Any officer to whom any dispute is referred for disposal by the Collector under sub-section (1) may either dispose of it himself or refer it for disposal to any officer subordinate to himself not being below the rank of Deputy Tahsildar, and such subordinate officer shall be a Survey Officer for the purposes of this Act.

Inquiry regarding dispute.

24. (1) The District Collector or Survey Officer, as the case may be, shall, after giving due notice of the time and place at which his inquiry will be held, proceed to investigate the claims of the various parties and record the evidence of all persons examined by him.

Decision and demarcation in accordance therewith.

(2) At the close of the investigation, he shall record in writing his decision and the reasons upon which it is based, and, after duly informing the parties of the same, and intimating to them the date on which he intends to demarcate according to his decision, shall proceed to mark out the requisite boundaries conformably therewith.

Completion of demarcation to be intimated to parties.

(3) The date on which the demarcation is completed shall be entered on the record of the case and forthwith communicated to the parties.

Decision when final.

(4) The decision so arrived at shall be final unless reversed or modified by the decree of a Civil Court, provided that in the case of an order passed by an officer below the rank of a Collector such decision shall be submitted to the Collector who after giving notice to the parties concerned and hearing them if they appear shall either confirm it or pass such other order as he may deem fit.

25. The provisions of section 13 shall apply *mutatis mutandis* in the case of any final decision passed under the preceding section.

Recovery of cost of survey in cases of dispute settled under this chapter.

26. (1) In the case of any dispute settled under the provisions of this Chapter, the costs of survey shall in the first instance be defrayed by the Local Government and shall then be apportioned by the District Collector or the Survey Officer, in accordance with such rules as the Local Government may prescribe, among the parties to the dispute; and the amount so apportioned to each party shall be recoverable from him as an arrear of land revenue.

(2) Appeals against orders passed under sub-section (1) shall be governed by the provisions of section 16.

27. The provisions of Chapters II or III, as the case may be, shall, so far as they relate to the maintenance, renewal and construction of survey-marks, apply to marks erected under this chapter.

CHAPTER V.

MISCELLANEOUS.

Power to enter upon and examine lands.

28. For the purposes of any survey, inquiry or other proceeding under this Act, the Survey Officer or the District Collector or any of the subordinates of such officers, shall have power to enter upon, examine and measure any land under survey. (Act XXVIII of 1860, section 28, and Burma Act V of 1880, section 15.)

Power to summon witnesses and require production of documents.

29. Any Survey Officer generally or specially authorized in that behalf, or the District Collector, or any officer to whom an appeal is preferred under any of the provisions of this Act, may, for the purposes of any survey, inquiry or other proceeding under this Act, summon and enforce the attendance of any person for giving evidence and for the production of documents or for the purpose of rendering assistance in the survey of any land in which such person has an interest; and the procedure prescribed in the Code of Civil Procedure for summoning and enforcing the attendance of witnesses and for the recording of evidence shall be followed as far as it can be made applicable.

Reference to arbitration.

30. (1) The District Collector or Survey Officer may, with the consent of all the parties concerned, refer to arbitration any dispute as to a boundary. (Burma Act V of 1880, section 16.)

Procedure in such cases.

(2) The procedure laid down in Chapter XXXVII of the Code of Civil Procedure shall thereupon apply as far as may be.

(3) The decision of the District Collector or the Survey Officer passed in accordance with such award shall be conclusive between the parties to such arbitration and those claiming under them.

Proprietor or registered holder may recover expenses paid by him from the owner of the estate or Government land and may acquire a charge upon the land to that extent.

31. (i) A proprietor or registered holder of an estate, or Government land, under survey who incurs any expenses under this Act in respect of such survey, or from whom the expenses of such survey are recovered under this Act, shall, if he be not the owner thereof, acquire a charge on such estate, or Government land, to the extent of the expenses so incurred, or recovered from him, with interest thereon at the rate of nine per cent. per annum, provided that, if he be a co-owner of such estate or Government land, such charge shall extend only to so much of the amount of such expenses as is payable in respect of the shares of the other co-owners in such estate or Government land.

Mortgagee, lessee, tenant, or owner, or co-owner may pay charges payable by proprietor or registered holder.

(ii) It shall be lawful for any person who is a mortgagee, lessee, or tenant, or who is the owner, or co-owner, or in good faith, believes himself to be the owner or co-owner, of an estate or Government land under survey, to pay the charges payable under this Act in respect of the survey of such estate or Government land, though he be not the proprietor or registered holder thereof.

Claim of mortgagee tenant or lessee in such case.

(iii) A mortgagee making such payment shall be entitled to add the same to the principal money due under the mortgage at the rate of interest payable on the principal and where no such rate is fixed, at the rate of nine per cent. per annum. And a lessee or tenant making such payment shall be entitled to deduct the same with interest at the rate of nine per cent. per annum from the rent then due, or thereafter becoming due, in respect of such estate or Government land.

Section 72, clause (*e*), Transfer of Property Act. Section 35 of the Madras Revenue Recovery Act II of 1864.

Co-owner similarly to acquire a charge upon the land.

(iv) A co-owner or a person who, in good faith, deems himself to be owner or co-owner, making such payment, shall acquire a charge on such estate or Government land for the amount so paid by him with interest thereon at the rate of nine per cent. per annum; provided that in the case of a co-owner such charge shall extend only to so much of the amount paid as is due in respect of the shares of the other co-owners in such estate or Government land.

Local Government may make rules under the Act.

32. The Local Government may make rules consistent with this Act— (Burma Act V of 1880, section 32.)

(*a*) prescribing for different localities the unit of survey, the sub-divisions thereof, and the description of the survey marks; and for the maintenance, renewal and repair of such marks;

(*b*) for the collection and record of any information in respect of any land which has been or is about to be surveyed;

(*c*) prescribing and limiting the powers and duties of officers conducting proceedings under this Act and for regulating their procedure;

(*d*) for the publication of all notifications issued under this Act, and for the issue and service of all orders, communications and notices to be issued, communicated, given or served under this Act;

(*e*) for the apportionment of all charges directed to be apportioned by this Act;

(*f*) prescribing the fees payable for processes issued and copies granted under this Act; and

(*g*) generally for carrying out the purposes of this Act;

and all such rules shall be published in the *Fort St. George Gazette* and shall thereupon have the force of law.

Immunity for acts done in good faith or purporting to be so done.

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

In the name and on behalf of Her Majesty the Queen, Empress of India, I assent to this Act.

F. Havelock
Governor of Madras.

Ootacamund.
24th April 1897

[G. / 24.]
500—28-10-96.

Legislative DEPARTMENT.

Papers to be read in proceedings :—

Again G.O., dated		189	, No.	
Again G.O., dated		189	, No.	
Current No.	of 189	, dated		, from
,, ,,	,, 189	, ,,		, ,,
,, ,,	,, 189	, ,,		, ,,

Rec'd 6/5/97

Letter No. 39 dated 28-4-97

~~ORDER.~~

To the Secretary to the Government of India,
Revenue & Agricultural Dept

Sir,

I am directed to forward copy of the marginally noted* Act, which was passed by the Madras Legislative Council on the 9th ~~April~~ instant, and received the assent of His Excellency the Governor on the 24th instant and to request that it may be submitted to His Excellency the Governor-General for his assent.

2. Two copies of each of the papers specified in the margin are enclosed for reference.

Rec'd 6/5/97

Endorsement No. 40 dated 28-4-97

Copy with enclosures noted on the margin, forwarded to the Government of India, Legislative Department, with reference to its letters dated 14th July 1879 No. 751 and 11th May 1889 no. 1520

CRIC 28/4/97

* An Act to amend the law relating to Survey of lands & settlement of boundary disputes.

* 1. Bill as introduced with statement of Objects & Reasons.
2. Report of the Select Committee.
3. Bill as amended by the Select Committee
4. Papers (1) (2) & (3) referred to in the Select Committee's report

Abstract proceedings of the Legislative Council relating to the Bill, dated 9th February & 9th April 1897.

@ 27 copies of each of the papers marginally noted above.