Urgent

Legislative (189) Department.

ORDINARY PRINTED.

G.O., No. 49-50 (49 only printed).

Note Letter no. 50 will be
found printed in Fo. 72 Legve
23.8.97

DATED 21.6.97.

INDEXED.

24/25

[Despatch Abstract.]

Madras Survey and Boundaries Act, 1897

Communicating to the Revenue
department the assent of His Excellency the
Viceroy and Governor-General to the ———
and directing publication of the Act in the
Fort St George Gazette in English & the Vernacular

BACK PAPERS.

G.O.	No.	Department.	Date.
Bkp	39	Legd	28-4-97
	185	Legve	26-12-78

FURTHER PAPERS.

G.O.	No.	Department.	Date.

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of which claims may depend upon the determination of an uncertain and disputed boundary or land-mark are hereby repealed.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."

(*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.

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. (Bombay Act V of 1879, section 119.)

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.

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.

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 15.)

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.

I certify this to be a true copy & that the Act received the assent of His Excellency the Governor of Madras on the 24th April 1897

H. Baker
Secretary to the Council

Ootacamund
28 April 1897 I assent to this Law.

Elgin
Viceroy and Governor General.

Simla,
the 7th June. 1897.

Legislative

No. 1084

FROM

J. M. MACPHERSON, Esq.,
Secretary to the Government of India,
Legislative Department,

CHIEF SECRETARIAT
16 JUN 1897
GOVERNMENT OF MADRAS

TO The Chief Secretary to the
Government of Madras

Dated Simla, the 10th June *1897.*

SIR,

I am directed to return, herewith, with the assent of the Governor General signified thereon, the authentic copy of the law noted in the margin, which was received with your letter No 39 dated the 28th April last, to the address of the Secretary to the Government of India in the Revenue and Agricultural Department.

To amend the law relating to Survey of lands and settlement of boundary disputes

2. It will be observed that the blank after the figures "189"

in

in Section 1 of the Act has been filled in, and that the marginal notes, indicating the sources from which the various provisions have been taken, have been omitted out of the authentic copy. The changes were made before the bill was laid before His Excellency, and I have to express the hope that similar defects will in future be avoided.

I have the honour to be,
Sir,
Your obedient Servant.

J. M. Macpherson
Secretary to the Govt of India.

[G. 24.] 800—26-1-97.

LEGISLATIVE DEPARTMENT.

Papers to be read in proceedings:—

Urgent

Print paper 1 only + also para 1 of the G.O.

Again G.O., dated 189 , No.
Again G.O., dated 189 , No.
Current No. 147 of 1897, dated 10-6- , from The Govt of India, Legve Dept.
" " " 189 , " , "
" " " 189 , " , "

ORDER. No 49 Legve dy 21.6.97.

P.S.

Note The present letter also has been addressed to the Chief Secretary & sent down without the Secretary's perusal.
CRV 18/6/97

The assent of His Excellency the Viceroy and Governor-General to the Madras Survey & Boundaries Act, 1897, will be communicated to the Revenue Department and the Act will be published in the Fort St George Gazette; Copies will also be ~~furnished~~ sent to the several Translators to Government who will furnish translations for publication in the Gazette at a very early date.

2. The following letter will be despatched to the Government of India

Issue
& proof Colby Sent to Pr 23/6/97

Desp'd 1/7/97 | To the Revenue Dept
All Translators to Govt
The Supt Govt Press.

Copies 23/6 24/6

Letter No. 50 Legve dy 21.6.97
To The Secretary to the Govt of India, Leg Dept.
Despatched 29/6/97.

Sir

In your letter no 1084 dated 10th

10th instant, returning with the assent of His Excellency the Viceroy & Governor-General the law relating to Survey of lands & Settlement of boundary disputes, it is pointed out in paragraph 2 that marginal notes indicating the sources from which the various provisions have been taken should be cut out of the authentic Copy of the Act with reference to this I am directed to point out that the marginal notes were inserted in accordance with the directions conveyed in Mr Fitzpatrick's letter No 1584 of 19th December 1878. In the future I am therefore now to enquire whether the such marginal notes should be discontinued ~~in future~~ when submitting Acts for the Assent of His Excellency the Governor-General ~~in future~~.

Note.

Please see proofs under cover of G.O. 39-40 28.4.97. It is very much regretted that the alteration of '89' into 1897 was lost sight of. As regards the marginal notes please see G.O. 185 Legve X. 26.12.1878 } This was very careless of the Office S.K. 2/6

The procedure laid down therein have been followed ever since that date — precedents of 1897, 1895, 1894 & 1890 are put up where such marginal notes appear. } x flagged A. Standing Orders up 18 page 48 of the blue pamphlet. } tied up Separately.

CRC 18/6/97

Please see this in regard to Surgeon style

CRC 18/6/97

The following Act of the Governor of Fort St George in Council received the assent of His Excellency the Governor on the 24th April 1897 and that of His Excellency the Viceroy and Governor-General on the 7th June 1897, and is hereby promulgated for general information:

MADRAS ACT No. IV 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.

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PRELIMINARY.

1. (1) This Act may be called "The Madras Survey and Boundaries Act, 1897." 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;

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(*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.

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(Madras Act II of 1894, section 4.)

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(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.

[G. 78]
300—30-7-96.

NOTE FOR THE Secretary.

Proof of the Survey Act is herewith submitted for approval. Attention is respectfully solicited to the alterations in the numbering of the subsections of s. 21 on page 6. & to the alteration of 'Secretary to the Council' into 'Secretary to Govt' on page 9, below 'by order'.

(1) In s. 21 Portions marked (ii) & (iii) are the consequences ensuing as referred to in (i), & it is considered that the proper way in which it should be indicated is to bring in (ii) & (iii) as subordinate to (i), & which this has been carried out by omitting (i) at the beginning of the section & altering (ii) & (iii) into (i) & (ii) respectively.

(2) As for the resignation of the officer ~~publishing~~ under whose signature the Acts in the Gazette, it appears as Under or Asst Secretary to Govt till Nov 1893 when the revised rules for the conduct of business at meetings of the Council were passed, after which date it has been appearing as 'Secretary to the Council' only apparently with reference to Council × Rule 55.
The Govt of India Acts are published under the name of the Secretary to Govt only

Thus

Give
"Survey act
"no alteration of any
kind can be made
after Viceroy's assent
Publish under designation
Sec to Govt Legve Dept"

The alteration was made in the original by the Secretary. CBS 4/7/97

S.P. 28/6/97

-t: You appear to have meant
-thereby altering to amend but
(1) In s. 21 no alteration of any
kind can be made
in an Act after it
is amended by
the Viceroy. I do not
understand how the
Act can now be seen
(2) suggest any
alteration. Tell
him so.

Publish it under
designation of
Sec to Govt Leg. Dept

flagged B

tion the Council rules on the Subject of the publication of the Act after the assent of H.E. the Governor-General is received, are the same as our rules.

As the Act has to be published in next Tuesday's gazette, I have asked the Head Clerk, Govt, to wire your approval of the proof in time for the due publication of the Act.

CRV
26/6/97

Flagged D.

Why do you always manage to send up these things so late. It came one late on Sunday afternoon

28/6/97

The proof of the Act was received on Friday the 25. to carefully check it & send it, it have me that day, & I was able to send it on Saturday. The proof might be handed or placed on the Secretary's table on Monday morning

CRV
1/7/97

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, JUNE 29, 1897.

Submitted for approval.

CRV
26/6/97

ACT OF THE GOVERNMENT OF MADRAS.

The following Act of the Governor of Fort St. George in Council received the assent of His Excellency the Governor on the 24th April 1897 and that of His Excellency the Viceroy and Governor-General on the 7th June 1897, and is hereby promulgated for general information:—

MADRAS ACT No. IV 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, 1897." 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—

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

(*b*) any

[PRICE, 2 *annas*.]

(*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.

"Government land."

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

"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 by the Collector as senior joint holder.

"Survey."

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

"Survey mark."

(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.

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 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.

6. (1) When

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.

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—

(*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.

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.

11. (1) If,

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 shal 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

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.

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 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*).

18. Except

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.

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

(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.

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.

Procedure in such cases.

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.

(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

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.

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—

(*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.

(By order.)

G. S. FORBES,
Secretary to the Council.

Government Legislative Dept.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

ACT OF THE GOVERNMENT OF MADRAS.

The following Act of the Governor of Fort St. George in Council received the assent of His Excellency the Governor on the 24th April 1897 and that of His Excellency the Viceroy and Governor-General on the 7th June 1897, and is hereby promulgated for general information:—

MADRAS ACT No. IV 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, 1897." 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—

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

(*b*) any

[PRICE, 2 *annas.*]

Communicating to the Revenue Department the assent of His Excellency the Governor-General to the —, and directing publication of the Act in the *Fort St. George Gazette* in English and the vernaculars.

(*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.

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

"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 by the Collector as senior joint holder.

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

"Survey mark." (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.

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 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.

6. (1) When

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.

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—

(*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.

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.

11. (1) If,

Communicating to the Revenue Dep... Governor-General to the —, and directing publication of the Act in ... in English and the vernaculars.

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, 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

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.

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.

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.

(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 stayed 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*).

18. Except

Communicating to the Revenue Department the assent of His Excellency the Viceroy and Governor-General to the —, and directing publication of the Act in the *Fort St. George Gazette* in English and the vernaculars.

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

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

(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.

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.

Procedure in such cases.

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.

(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

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.

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—

(*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.

(By order.)

G. S. FORBES,
Secretary to Government,
Legislative Department.

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in English and the vernaculars.

41

Government {1897} of Madras.

LEGISLATIVE.

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G.O., No. 49, 21st June 1897.

JUNE.

Madras Survey and Boundaries Act, 1897.

Communicating to the Revenue Department the assent of His Excellency the Viceroy and Governor-General to the —, and directing publication of the Act in the *Fort St. George Gazette* in English and the vernaculars.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

READ—the following paper:—

From J. M. MACPHERSON, Esq., Secretary to the Government of India, Legislative Department, to the Secretary to the Government of Madras, Legislative Department, dated Simla, 10th June 1897, No. 1084.

I am directed to return, herewith, with the assent of the Governor-Gener signified thereon, the authentic copy the law noted in the margin, which w received with your letter, No. 39, dated the 28th April last, to the address of the Secretary to the Government of India in the Revenue and Agricultural Department.

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

* * * * *

ORDER—No. 49, Legislative, dated 21st June 1897.

The assent of His Excellency the Viceroy and Governor-General to the Madras Survey and Boundaries Act, 1897, will be communicated to the Revenue Department, and the Act will be published in the *Fort St. George Gazette*; copies will also be sent to the several Translators to Government, who will furnish translations for publication in the gazette at a very early date.

* * * * *

(True Extract.)

G. S. FORBES,
Secretary to Government.

To the Revenue Department.
" the Superintendent, Government Press.
" all Translators to Government.

Exd. A. Raitt.

opy sent to Press. 23/6/97

ned for signature. 30/6/97

tched in print. 1/7/97

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