

## **ANDHRA PRADESH SURVEY AND BOUNDARIES ACT, 1923**

**8 of 1923**

**[29th May, 1923]**

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### **ANDHRA PRADESH SURVEY AND BOUNDARIES ACT, 1923**

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An Act to amend the law relating to survey of land and settlement of boundary disputes. This Act was extended to the transferred territories (Telangana area) by Section 3 of the Andhra Pradesh Survey and Boundaries (Extension and Amendment Act, 1958) (Andhra Pradesh Act XXII of 1958). Statement of Objects and Reasons "The intention of the Select Committee which sat on the Bill of 1897 which now continues the present Act, was to make the decision of the Survey Officer as to boundary conclusive unless it was challenged in a Civil Court. The judgment of High Court in Second Appeal No.22 of 1915 shows that the Bill as drafted did not carry out this intention. The main object of the present Bill is to restore to the law the meaning which the sections were originally intended to convey. The opportunity has been taken to bring the Act into accord with modern arrangements in some other respects. The majority of the general surveys have been completed, and the Act is now largely required in connection with survey of estates or other similar areas, re-surveys, maintenance and the like. For this purpose the clauses have been framed in more general terms so as to cover any such survey. At the same time the special provisions relating to settlement of boundary disputes by Collectors have been merged in the general provisions. Power has also been reserved to the local Government to direct the survey or re-survey of any estate or portion of an estate without an application from the proprietor whenever such survey or re-survey is found necessary for the better or more convenient assessment or levy of irrigation cess, and to recover a portion of the cost thereof from the proprietors. Such survey would be beneficial like to the Government and the proprietor and it is reasonable that a portion of the cost

should be borne by the proprietor. The principle to be followed in the appointment of the cost will be regulated by the rules framed under the Act. In the same connection, opportunity has been taken to alter the arrangements regarding the calculation and distribution of charges for surveys. The arrangements defined in the Act, under which any particular landholder may supply labour and stones, are not really workable, and therefore it is proposed in future that Government should pay the initial cost of all surveys and recover it. This will not prevent any individual landholder supplying his own stones or labour by arrangement with the Survey Officer. The other amendments are merely, verbal amendments, rendered necessary to bring the Act up-to-date. Statement of Objects and Reasons to old Act IV of 1897 :- "The previous law relating to demarcation and survey of boundaries and to the settlement of boundary disputes was contained in Act XVIII of 1860 and Madras Act II of 1864, the latter enactment having been formed in order to amplify the provisions of the former in regard to maintenance of boundary marks already erected. The provisions of law contained on provision enabling a Boundary Settlement Officer to summon and enforce the attendance of witnesses or to require the production of documents, and did not require him to record the evidence upon which his decision was based. The Act of 1860 contemplated a rough and ready settlement of boundary disputes, and with a view to expediting the conduct of survey operations by the Boundary Settlement Officer free to arrive at his decision without any definite method of procedure. It was desirable to amend this law in many essential respects. The older enactment was devoid of logical arrangement, and while the more recent law, as contained in Madras Act II of 1889, had been practically reproduced in the present Act, the provisions of both had been consolidated and amended, and the law recast in a manner more suited to present requirements. Experience had shown that the then existing provisions in regard to settlement of boundary disputes had been worked badly, and in several cases the Government had been put to considerable loss by the irresponsible and unsatisfactory nature of the original decision. The sections of the earlier Act providing of or a reference to arbitration had been taken away, as it had been found that these provisions were seldom or never used in practice, and a decision of non-official jury or committee is in any case likely to lack promptitude and precision. This act accordingly proposes to submit the decision of all disputes to the Boundary Settlement Officer in the first instance and prescribes the method in which he

shall adjudicate thereon; it however, enables him with the consent of the parties to refer to any dispute to arbitration if he considers it desirable to do so under the provisions of the Code of Civil Procedure. In order to remedy the evils noted above, the Bill proposes to enact that the decision of the Boundary Settlement Officer who is to be styled "Survey Officer" shall be arrived at in a judicial manner and power is taken to make rules for the regulation of all proceedings taken by Survey Officers under the Act. The decision of the Survey Officer in the case of a boundary dispute arising otherwise than in the course of a regular survey has been made final until reserved or modified by means of a regular suit in a Civil Court the provision is in accordance with a ruling then recently promulgated by the High Court of Madras to the effect that the decision against which any appeal is allowed in the form of a regular suit is in the original decision of the Survey Officer, had not that of his superior passed in revision. Under the Miscellaneous' chapter of the Act, a section has been inserted to give the Collector or Survey Officer immunity for anything done or omitted in good faith under the Act. The definition of Survey Officer has since been framed so as to enable the Government to select any person it may think fit for this duty. This power has been taken in view of the fact that doubts have from time to time, been arisen as to whether any officer, such as the manager of estate under the Court of Wards, could legally be appointed as a Survey Officer under the Act. It is deemed advisable to leave the hands of Government entirely unfettered in this respect. As already stated the provisions relating to the maintenance of boundary marks have been left practically as they stood under Act II of 1884; the duties of Village Officers in this respect are prescribed in a new Section 18 which is modelled on Section 27 of Act V of 1880 (the Burma Act). The section relating to the conduct of surveys of Government lands have, however, been slightly amplified in order to meet the difficulty brought to notice by the Superintendent of Revenue Survey in regard to the levy of survey charges from the owners and occupiers of land surveyed. In the survey of a village the labour of the chairman and flagman for Field Surveyors had been supplied by the villagers, while the labour of these individuals when required for Deputy or Head Surveyor or Sub-Assistants had been charged to the State. This Survey formed a heavy additional item in the cost of survey and in view of the fact that difficulty was experienced in obtaining such labour free, even when required by Field Surveyors; the existing law had been amended and brought into conformity

with the law relating to this subject in the Bombay Presidency (Bombay Act V of 1879, Section 97) The provisions contained in Act XVIII of 1860 prescribing penalties for disobeying summons, for making false statements for erasing, altering or injuring boundary marks, and for obstructing operations undertaken under the Act, have been omitted as superfluous. Preamble :- Whereas it is expedient to consolidate and amend the law relating to survey of lands and settlement of boundary disputes and whereas the previous sanction of the Governor-General has been obtained under Section 80-A (3) of the Government of India Act; it is hereby enacted as follows--

#### CHAPTER 1

#### CHAPTER

### **1. Title :-**

(1) This Act may be called the Andhra Pradesh Survey and Boundaries Act, 1923.

(2) Local extent :- It extends to the whole of the State of Andhra Pradesh.

### **2. Repeal :-**

The Madras Survey and Boundaries Act, 1897, is hereby repealed.

### **3. Interpretation Clause :-**

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

(ii) Government land :- Government land' means any land not forming an estate or any portion thereof.

(iii) Prescribe :- Prescribe' means prescribed by rules framed under this Act.

(iv) Proprietor :- 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.

(v) Registered holder :- The registered holder' of any Government land means the person in whose name the land in question is registered in the Government accounts of the village; Provided that when any person other than the registered holder is in lawful management of the Government land otherwise than as agents or servant of the registered holder or as mortgagee or lessee, such

person shall be deemed to be the registered holder in respect of such Government land.

(vi) 'Proprietor' or 'Registered holder' in case of joint registration :- 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 recognised 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.

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

(viii) Survey mark :- Survey mark' means any mark or object erected, made, employed or specified by a survey officer to indicate or determine or assist in determining the position or level of any point or points.

(ix) Survey officer :- Survey officer' means any person appointed to be a survey officer under Section 4.

#### **4. State Government to appoint survey officers :-**

(1) The State Government may by notification appoint any person either by name or by virtue of his office to be a survey officer for all or any of the purposes of this Act.

(2) State Government to prescribe jurisdiction of survey officer :- Subject to the control of the State Government and of any 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 and for such periods of time as the State Government may direct.

(3) State Government may delegate powers of control :- The State Government may delegate its powers under sub-sections (1) and (2) to such officer or authority as it thinks fit.

#### **CHAPTER 2** **CHAPTER**

#### **5. State Government may direct the survey of Government land or of any boundary of such land :-**

The State Government or, subject to the control of the State Government any officer or authority to whom these powers may be

delegated by it may by notification order a survey of any Government land or of any boundary of such land or of the boundary forming the common limit of Government land and land that is not Government land.

**6. Notification to be published by Survey Officers :-**

(1) When any survey is ordered under Section 5, the survey officer shall publish a notification in the prescribed manner inviting all persons having any interest in the land or in the boundaries of which the survey has been ordered, to attend either in person or by agent at a specified place and time and from time to time thereafter when called upon for the purpose of pointing out boundaries and supplying information in connection therewith.

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

**7. Survey Officer to carry out the survey or get the survey carried out in the manner prescribed :-**

The survey officer shall carry out the survey or shall cause the survey carried out with the assistance of an external or internal agency approved by the Government in the manner prescribed.

**8. Cost to be charged to persons interested in the lands surveyed :-**

(1) The cost, if any, of the labour employed and of the survey marks used in any survey notified under Section 5 shall be determined and apportioned in the prescribed manner among the persons who have any interest in the land or in the boundaries of which the survey has been ordered and shall be recoverable from such persons as an arrear of land revenue. Notice of such determination and apportionment shall be given in the prescribed manner to the persons aforesaid.

(2) Any person affected by a decision under sub-section (1) may appeal to the prescribed officer whose decision, with reasons therefor, shall be recorded in writing; and notice of such decision shall be given in the prescribed manner to the parties of the appeal.

**9. Power of survey officer to determine and record an**

### **undisputed boundary :-**

(1) The survey officer shall have power to determine and record as undisputed any boundary in respect of which no dispute is brought to his notice.

(2) Notice to registered holders of land affected:- Notice of every decision of the survey officer under Section 9 (1) shall be given in the prescribed manner to the registered holders of the lands the boundaries of which may be affected by the decisions.

### **10. Power of survey officer to determine and record a disputed boundary :-**

(1) Where a boundary is disputed, the survey officer, after making such inquiry as he considers necessary, shall determine the boundary and record in writing the reasons for his decision.

(2) Notice to parties to the dispute and to registered holders of land affected :- Notice of every decision of the survey officer under Section 10 (1) shall be given in the prescribed manner to the parties to the dispute and other registered holders of the lands, the boundaries of which may be affected by the decision.

### **11. Appeals against orders under Section 9 or 10 :-**

(1) Any person affected by a decision under Section 9 or 10 may appeal to the prescribed officer. The decision of the appellate authority with reasons therefor shall be recorded in writing and notice of such decision shall be given in the prescribed manner to the appeal. Any modification of the survey officer's decision, ordered by the appellate authority, shall be noted in the record prepared under Section 9 or 10 as the case may be.

(2) A copy of the order and a copy of the map of recording the boundaries as determined under Section 9, 10 or 11 (1) shall be furnished to any person interested in such order or map as the case may be on his application and at his cost.

### **12. Period within which appeal should be preferred :-**

(a) An appeal under Section 11 shall be preferred within three months from the date of service of notice under Section 9 or 10, provided that the time taken to obtain a copy of the decision and of the map shall not be included in the period of three months allowed for appeal.



(c) No appeal shall be admitted under sub-section (b) after the issue of the notification specified in Section 13.

**13. Completion of demarcation to be notified :-**

When the survey of any land or boundary which has been notified under Section 5 has been completed in accordance with the order passed under Section 9, 10 or 11 the survey officer shall notify the fact in the District Gazette and a copy of such notification shall be pasted in the village chavadi, if any, of the village to which the survey relates: unless the survey so notified is modified by a decree of a civil court under the provisions of Section 14; the record of the survey shall be conclusive proof that the boundaries determined and recorded therein have been correctly determined and recorded; Provided that in the case of land or boundary situated in the territories specified in sub-section (1) of Section 3 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), Until a District Gazette is published for the district in the said territories, a notification as required by this Section shall be published in the Andhra Pradesh Gazette in lieu of publication in the District Gazette.

**14. Institution of a suit in Civil Court within three years to establish rights claimed in respect of the boundary of the property surveyed :-**

Any person deeming himself aggrieved by the determination of any boundary under Section 9, 10 or 11 may, subject to the provisions of Part II and III of the Indian Limitation Act, institute a suit within three years from the date of the notification under Section 13 to set aside or modify the said determination and the survey shall, if necessary, be altered in accordance with the final decree in the suit and the alteration, if any shall be noted in the record. The plaintiff in such suit shall join as parties to it all persons whom he has reason to believe to be interested in the boundary which is the subject of the suit.

**15. Registered holders responsible for the maintenance of survey marks :-**

(1) Subject to such conditions as may be prescribed 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 the survey officer or the collector may, at the cost of the State Government maintain, renew and repair such survey marks, determine and

apportion the cost of so doing, and recover such cost as an arrear, of land revenue. Such cost may include the cost of all operations incidental to such renewal or repair but not any charges on account of survey officers and supervising establishment.

(2) Notice to the registered holder :- Before a survey officer of Collector maintains renews or repairs any survey marks, he shall serve a notice in writing on the registered holder in the prescribed manner giving particulars of the survey marks in respect of which default has been committed and calling upon him to maintain, renew or repair the same within a time to be specified in such notice which shall be not less than 15 days from the date of service thereof.

(3) Notice to cultivator or other person interested :- If the notice under sub-clause (2) cannot be served personally on the registered holder, a copy of the same shall be served also on the cultivator or other person interested in the land.

#### **16. Duties of village officers :-**

It shall be the duty of every village headman and of every village accountant--

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

(b) when he becomes aware that any such mark has been destroyed, injured, removed or altered, to report the fact to the prescribed officer.

#### **CHAPTER 3** **CHAPTER**

#### **17. State Government may direct the survey of an estate in certain cases :-**

The State Government or subject to the control of the State Government any officer or authority to whom this power maybe delegated by it, may by notification direct the survey of any estate or portion of an estate or of any boundary therein--

(a) on the application in writing of the proprietor of such estate or, in the case of boundary, or any person interested therein; or

#### **18. Procedure to be observed during survey :-**

Except as provided in Section 19 and 20, the conduct of such survey the proceedings of the 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 survey officer, the granting of copies thereof and the effect of such orders and of the decision passed in appeals therefrom and in regard to the right of suit in respect of such orders and decisions shall, as far as may be, apply to all orders passed by a survey officer under this chapter and to the decisions passed in appeal against such order.

**19. Cost of survey recoverable from proprietor :-**

All costs incurred by the State Government on account of a survey directed under Clause (a) of Section 17 shall be recoverable from the persons who have any interest in the estate, portion of estate, or boundary of which the survey has been ordered as an arrear of land revenue, of the cost of survey directed under Clause (b) (i) and (ii) of Section 17 shall be borne by the State Government unless otherwise provided by any law for the time being in force.

**20. State Government may direct apportionment of costs among lands surveyed :-**

(1) On the application of the proprietor of an estate in which any survey has been made, the State Government or any officer, or authority to whom this power may be delegated by it, may direct the survey officer to apportion among the holders of the lands or persons interested in the boundaries which have been surveyed the whole or a specified portion of the cost of such survey; provided that no tenant under a proprietor shall be called upon to pay a larger sum on account of such survey than he would be liable to pay if he held his land directly under the Government.

(2) Apportionment how made :- The apportionment under subsection (1) shall be made in the prescribed manner.

(3) Cost so apportioned recoverable by proprietor from tenants :- The amount apportioned under this section when it is due by the tenants of a proprietor shall be recoverable as if it were an arrear of rent due by a tenant to his landholder.

(4) For the purpose of this Section and Section 21, the expression tenant shall include the holder of a rent free grant.

**21. Consequences ensuing on completion of survey of an estate :-**

When an estate or a portion of an estate or a boundary in 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.

(i) Duty of tenants :- Subject to such conditions as may be prescribed in this behalf, every tenant of the land surveyed, and where there is no tenant, the proprietor, shall be bound to maintain, renew and repair the survey marks on or within the boundaries of his holding, and in default of his doing so the Collector may, after giving notice to the tenant or proprietor as the case may be in the manner provided in sub-sections (2) and (3) of Section 15 at the cost of the State Government maintain, renew and repair such survey marks and recover the cost of so doing as an arrear of land revenue. Such cost may include the cost of all operations incidental to such renewal or repair but not any charges on account of survey officers and supervising establishment.

#### CHAPTER 4 CHAPTER

### **22. Power to enter upon, examine and clear obstruction on lands :-**

For the purposes of any survey, inquiry or other proceedings 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 and to clear 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.

### **23. Power to summon witnesses and require production of document :-**

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 purpose of rendering assistance in the survey of any land, summon and enforce the attendance of any person who has an interest therein and may for the purpose of any survey, inquiry or other proceedings under this Act, summon and enforce the attendance of any person for giving evidence and for the production of documents; 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.

**24. Reference to arbitration :-**

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

(2) 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.

**25. . :-**

(i) 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 :- In the absence of a contract to the contrary, a proprietor or registered holder of any estate or Government land under survey who incurs, any expenses or from whom any expenses are recovered under this Act in respect of such survey, shall, if he be 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 9 per cent per annum.

(ii) Person claiming an interest may pay charges payable by proprietor or registered holder and acquire a charge :- It shall be lawful for any person claiming an interest in 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, and all such sums, if paid by a tenant or lessee, may be deducted from any rent then or afterwards due by him in respect of such estate or Government land and if paid by any other person interested or bona fide claiming an interest in the estate or Government land, shall be a charge upon such estate or Government land. Such sums shall bear interest at 9 per cent per annum.

(iii) Extent of such charges :- Where a person entitled under this section to a charge on an estate or Government land is a co-owner of such estate or Government land such charge shall extend only to so much of the amount recovered from or expended or paid by him as is due in respect of the share of the other co-owners in such estate or Government land with interest at the rate aforesaid.

**26. State Government may make rules under the Act :-**

(1) The State Government may, after previous publication, make rules to carry out the purposes of the Act.

**27. Immunity for acts done in good faith or purporting to be so done :-**

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