

Odisha Special Survey And Settlement Act, 2012

05 of 2012

[28 September 2012]

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An Act To Provide For Undertaking Survey and Settlement

Operations In The State By Adopting Modern Technology To Minimize The Time Span Without Compromising Quality Transparency and Grievance Redressal and For Matters Connected Therewith and Incidental Thereto.

BE it enacted by the Legislature of the State of Odisha in the Sixty-third Year of the Republic of India as follows:--

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1. Short title, extent and commencement :-

(1) This Act may be called the Odisha Special Survey and Settlement Act, 2012.

(2) It extends to the whole, of the State of Odisha.

(3) It shall be deemed to have come into force on the 12th July, 2012.

2. Definitions :-

(1) In this Act, unless the context otherwise requires,--

(a) "Agency" means any person engaged by the Director for preparation of preliminary record of rights;

(b) "Collector" means the Collector of the district;

(c) "Director" means the Director, Land Records and Survey;

(d) "Government" means the Government of Odisha;

(e) "Land owner" means,--

(i) a raiyat;

(ii) a tenant;

(iii) a land holder;

(f) "licensed surveyor" means a person technically qualified to measure, draw sketch map or map according to the scale of plots and holding licence from the Director to carry out the work relating to survey and settlement and such other work as may be assigned to him, from time to time;

(g) "Modern Technology" includes Aerial Photography, High Resolution Satellite imagery, Differential Global Positioning System and Electronic total station system and such other technology or method as may be approved by the State Government;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "public body" means a Government Company as defined in section 617 of the Companies Act, 1956 or a Corporation established by or under a Central Act or State Act which is controlled or managed by the Government or a local authority;

(j) "recess" means the stage during which records are prepared for the final publication of the record of rights;

(k) "record of rights" means record of rights prepared under this Act containing the entries of the surveyed land along with their category, ownership, nature, area and such other matters as may be prescribed;

(l) "revisional survey" means survey operations initiated and conducted on the basis of the blue print map of the cadastral survey in order to update the land records; and

(m) "settlement" means survey operations conducted in a district or in an area in order to determine land revenue assessment.

(2) Words and expressions used in this Act but not defined shall have the same meaning as assigned to them in the Odisha Survey and Settlement Act, 1958 and the Odisha Land Reforms Act 1960.

3. Intention for survey and settlement :-

(1) The Government may, by notification, express its intention to carry out special survey and settlement in any part or the whole of the State, in accordance with the provisions of this Act notwithstanding anything contained in the Odisha Survey and Settlement Act, 1958.

(2) Where a notification is published under sub-section (1), the Tahasildar shall publish a proclamation to that effect in the prescribed manner.

4. Reorganizing ongoing survey operations :-

The Government may, by order, reorganize the ongoing survey operations in the districts concerned or in any area, as the case may be, to bring the same in conformity with the provisions of this Act, so far as it may be deemed necessary, in the prescribed manner and the earlier proceedings shall not be construed to be illegal to any extent on account of the special Survey conducted under this Act.

5. Self-declaration by land owners :-

(1) After notification under Section 3, every land owner may submit in the concerned Tahasil Office or Camp Office, a self declaration of plots owned or held by him in the prescribed manner.

(2) The Tahasil Office or Camp Office, as the case may be, shall verify the self-declaration received under sub-section (1) on the

basis of the available records and issue verification certificate.

6. Survey by modern technology :-

(1) Survey of a revenue village may be carried out by applying modern technology inclusive of base mapping, demarcation and ground realities in accordance with the prescribed procedure laid down in this behalf.

(2) Survey operations shall be duly publicised at the local level to ensure and facilitate active participation by the Panchayati Raj Institutions and people of the villages concerned.

Explanation.--For the purpose of this section "Panchayati Raj Institution" means the Institution of self-Government constituted under article 243B of the Constitution for the rural areas.

7. Preparation of the draft record of rights :-

(1) The Director may engage one or more Agencies having such qualification as may be prescribed who shall be responsible for preparation of preliminary record of rights in whole or in part of the revenue village including preparation of notices for the land owners and their services to the land owners concerned and inviting objections thereon and for collections and compilations of such objections to the notices in the prescribed manner.

(2) There shall be constituted in every revenue village concerned a team of persons to update and prepare basic record of rights with the assistance of such Agency and licensed surveyor.

(3) A team of persons referred to in sub-section (2), shall include an officer or employee of the Tahasil office concerned and any other designated officer or employee as the Sub-Collector may appoint.

(4) While preparing the basic record of rights, the concerned team of persons shall take into account to-date ground realities, changes,

transfers, sub-divisions, partitions, hereditary devolution, exchanges and the like, in matters of determining right, title and ownership of the land holdings.

(5) Such team of persons shall identify and demarcate lands, Government lands, lands treated as common property resources and the like and record the same as such in the record of rights.

(6) Claims and objections, if any, shall be disposed of in such manner and by such officer not below the rank of a Tahasildar as may be prescribed and the land records prepared in the aforesaid manner, shall be called the draft record of rights.

8. Publication of record of rights :-

The draft record of rights including maps, prepared under Section 7, shall be published in the concerned revenue village in the manner as may be prescribed in this behalf, inviting claims and objections.

9. Objections to draft record of rights :-

Claims and objections shall be heard and disposed of in such manner and by such officer as may be prescribed who shall not be below the rank of an Additional Sub-Collector:

Provided that the officer who has heard and decided the claims and objections under Section 7 shall not hear the claims and objections under this section.

10. Work during the recess :-

After the disposal of claims and objections in accordance with Section 9, the final-checking of records, fair copying, comparing, and arrangements of records alphabetically according to names of land owners shall be carried out in recess, in the prescribed manner.

11. Final publication of the record of rights :-

(1) The record of rights of a revenue village shall be published

finally under the hand and seal of the Collector in the prescribed manner, after the conclusion of work under Section 10.

(2) Claims and objections with regard to the record of rights may be filed within three months of its final publication and such claims and objections shall be heard and disposed of in such manner and by such officer as may be prescribed, who shall not be below the rank of an Additional District Magistrate.

(3) A copy of the finally published record of rights shall be sent to the concerned Tahasil Office for follow up action in day-to-day revenue administration.

(4) The orders, if any, passed under sub-section (2) shall be communicated to the Tahasildar for necessary corrections in the record of rights.

12. Presumption of final publication and correctness of record of rights :-

(1) The record of rights prepared and finally published under this Chapter or a certified copy thereof shall be conclusive evidence of such publication.

(2) The Government may, by notification, declare with regard to any specified area that a record of rights has been finally published for every village included in such area and such notification shall be conclusive evidence of such publication.

(3) Every entry in a record of rights, so published, shall be evidence of the matter referred to in such entry and shall be presumed to be correct unless it is proved by evidence to be incorrect:

Provided that, if any entry in a record of rights is altered in a subsequent record of rights, the latter entry shall be presumed to be correct until it is proved by evidence to be incorrect, but the

previous entry shall be admissible as evidence of the facts existing at the time when such entry was made.

13. Consolidation to follow special survey and settlement :-

The record of rights finally published in respect of any revenue village covered by special survey and settlement under this Act shall be taken into account for the purpose of consolidation operations as provided in the Odisha Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972.

14. Maintenance of records in digital form :-

All the records created during preparation of record of rights may be maintained in digital form in the prescribed manner.

15. Grant of licence and enrolment :-

(1) The Director shall invite applications from persons desirous of being enrolled as licensed surveyors in the manner as may be prescribed.

(2) The applicant desiring for the grant of licence should possess technical qualifications and experience as may be prescribed.

(3) The Director shall enrol the qualified persons and send the list to the Collectors for use as and when required in accordance with the guidelines issued, from time to time, in this regard by the Government.

16. Duties of the licensed surveyors :-

It shall be the duty of the licensed surveyors to--

(a) prepare sketch map and map to scale as applied for by the land owners;

(b) prepare map to scale as required by the Government Authority or Public Body;

(c) prepare map to scale as required by the requisitioning body in the land acquisition proceedings;

(d) update maps prepared in course of cadastral and revisional surveys;

(e) verify digital maps prepared through modern technology and carry out ground realities exercises;

(f) prepare record of rights in the post-mapping stage, during field survey and settlement operations as well as facilitate updating of land records maintained in the revenue offices;

(g) facilitate inter-connectivity among revenue offices;

(h) prepare maps and record of rights during consolidation proceedings; and

(i) perform such other incidental duties relating to survey operation and preparation of record of rights as may be conferred by the Director or the Collector.

17. Distribution of work among licensed surveyors :-

The Collector or any other revenue officers in a District, as may be authorised by the Director, shall distribute works among the enrolled licensed surveyors.

18. Fees and remuneration :-

(1) Such authority as may be prescribed shall be nominated by the Government to decide the fee and remuneration for different works and services to be rendered by the licensed surveyors.

(2) To assess the works as provided in section 5 relating to land revenue

(2) In case the work as provided in section 5 pertains to rendering services to a private individual, the individual shall, along with an application form, deposit such amount as fees as may be prescribed, in the revenue office concerned, after which, the revenue officer shall deduct such part of the fees as may be prescribed as incidental costs for supplying copies of the existing record of rights and the rest of the amount shall be payable to the licensed surveyor as remuneration to whom the work is allotted, on satisfactory completion of the work.

(3) The sketch map or map to scale, as prepared by the licensed surveyor, shall be verified by the officer of the Tahasil concerned and findings shall be recorded in writing and in case the work is found unsatisfactory, the matter shall be remitted back to the licensed surveyor concerned for carrying out the exercise afresh.

(4) In case, a work has been assigned to the licensed surveyor by a Department of Government or requisitioning body in land acquisition or any public body, the licensed surveyor shall be paid such remuneration as may be prescribed.

(5) In case, the licensed surveyor is assigned with a work pertaining to the preparation of maps or record of rights during survey and settlement operations or updating of records of rights and the like, he shall be paid such remuneration as may be prescribed.

19. Cancellation of licence :-

In case of dereliction of duties, unsatisfactory activities or any other proven misconduct, the Director may, either suo-motu or on the recommendation of the Collector to this effect, cancel the licence of the licensed surveyor:

Provided that no order of cancellation shall be made unless the concerned licensed surveyor has been given an opportunity of being heard.

20. Overriding effect over other laws :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom or usage having the force of law or contract.

21. State to be a necessary party in certain cases :-

Notwithstanding anything contained in any provision in any law for the time being in force, in cases concerning a land or a portion thereof, recorded previously as Government land, under whatever nomenclature, the State shall be a necessary party.

22. Summary disposal of proceedings :-

All proceedings under this Act shall be summarily disposed of in accordance with the provisions of this Act and rules framed thereunder.

23. Bar of jurisdiction until final publication :-

Save as otherwise expressly provided in this Act, no Court, except the Odisha High Court and the Supreme Court of India, shall entertain any suit or other proceeding to set aside, modify or question the validity of an order or decision passed or taken by an authority under this Act or any rules made thereunder or in respect of any matter falling within the scope of this Act, until and unless the record of rights is finally published under Section 11.

24. Power to give direction :-

For the purpose of giving effect to the provisions of this Act, it shall be competent for the Government to issue such directions and guidelines as they may deem fit to any officer, authority or person subordinate to the Government.

25. Power to frame technical guidelines :-

The Board of Revenue, Odisha shall have the power to frame technical guidelines to carry out all or any of the purposes of this Act.

26. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall be instituted against the Government, Director, Collector or any Officer or person

acting in this behalf for anything which is, in good faith, done or intended to be done in pursuance of the provisions of this Act or rules or guidelines made thereunder.

27. Power of Government to make rules :-

(1) The Government may, by notification, make rules for carrying out all or any of the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, the rules may provide for all or any of the following matters, namely:

(a) the manner in which summary disposal of proceedings shall be carried out;

(b) the manner in which reports and returns are to be submitted;

(c) the manner in which applications shall be heard;

(d) the manner in which any amount shall be deposited in the Government account;

(e) the maintenance of records, registers and display of notices;

(f) the manner in which application or claim or objection shall be filed; and

(g) any other matter which is required to be, or may be prescribed.

28. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the official

gazette, make such provisions not inconsistent with the provisions of this act as may appear to it to be necessary or expedient to remove the difficulty.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before the Odisha Legislative Assembly.

29. Repeal and savings :-

(1) The Odisha Special Survey and Settlement Ordinance, 2012 is hereby repealed.

(2) Notwithstanding such repeal, any order, notification or rule made or anything done or any action taken in pursuance of any provision of the said Ordinance shall be deemed to have been made, done or taken under the corresponding provisions of this Act.