

## **Madras Survey And Boundaries Act, 1923**

**08 of 1923**

**[29 May 1923]**

### CONTENTS

#### **CHAPTER 1 :- PRELIMINARY**

1. Title
2. Repeal
3. Interpretation clause
4. State Government to appoint survey officers

#### **CHAPTER 2 :- THE SURVEY OF GOVERNMENT LANDS**

5. State Government may direct the survey of Government land or of any boundary of such land
6. Notification to be published by survey officers
7. Survey officer to carry out the survey in the prescribed manner
8. Cost to be charged to persons interested in the lands surveyed
9. Power of survey officer to determine and record an undisputed boundary
10. Power of survey officer to determine and record a disputed boundary
11. Appeals against Orders under section 9 or 10
12. Period within which appeal should be preferred
13. Completion of demarcation to be notified
14. Institution of a suit in civil court within three years to establish rights claimed in respect Of the boundary of the property surveyed
15. Registered holders responsible for the maintenance of survey marks
16. Duties of village officers

#### **CHAPTER 3 :- THE SURVEY OF ESTATES**

17. State Government may direct the survey of an estate in certain cases
18. Procedure to be observed during survey
19. Cost of survey recoverable from proprietor
20. State Government may direct apportionment of costs among lands surveyed
21. Duty of tenants

#### **CHAPTER 4 :- MISCELLANEOUS**

22. Power to enter upon, examine and clear obstruction on lands  
23. Power to summon witnesses and require production of documents  
24. Reference to arbitration  
25. 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  
26. State Government may make rules under the Act  
27. Immunity for acts done in good faith or purporting to be so done

## **Madras Survey And Boundaries Act, 1923**

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### **PREAMBLE**

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 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:--

1. For Statement of Objects and Reasons, see Part IV of the Fort St. George Gazette, dated 1st February 1921, page 374; for Proceedings in Council, see Proceedings of the Madras Legislative Council, Volume I, pages 72-84; Volume II, pages 72-74; Volume IX, pages 565-566; Volume X, pages 1076-1096, 1108-1149 and 1179-1220; and Volume XI, pages 1384-1395.

This Act was extended to the merged State of Pudukkottai by section 3 of, and the First Schedule to, the Madras Merged States (Laws) Act, 1949 (Madras Act XXXV of 1949).

This Act was extended with modification to the Kanyakumari district and the Shencottah taluk of the Tirunelveli district by section 9 (2) of the Madras (Transferred Territory) Extension of Laws Act, 1957 (Madras Act XXII of 1957), repealing the corresponding law in force in that territory.

All doubts as to the validity of this Act have been removed by the Madras Survey and Boundaries Act, 1923 (Validation) Act, 1924 (Madras Act II of 1925).

### **CHAPTER 1 PRELIMINARY**

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

(1) This Act may be called the Madras Survey and Boundaries Act,

1923.

Local extent.

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

## **2. Repeal :-**

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

## **3. Interpretation clause :-**

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

Estate.

(i) Estate means--

(a) any permanently-settled estate whether a Zamindari, jaghir, mitta or palaiyam;

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

(c) any unsettled palaiyam or jaghir;

(d) any inam 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.

Prescribe.

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

Proprietor.

(iv) 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.

(v) 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 Government land otherwise than as agent 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.

Proprietor or Registered holder in case of joint registration.

(vi) 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

(vii) 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 resurvey.

Survey mark.

(viii) 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.

Survey officer.

(ix) Survey officer means any person appointed to be a survey officer under section 4.

Village headman. Village accountant.

<sup>1</sup>[(x) Village headman and village accountant in relation to the Kanyakumari district and the Shencottah taluk of the Tirunelveli district respectively include, village officer and village assistant.]

1. This clause was inserted by section 9 (2) of the Madras (Transferred Territory) Extension of Laws Act, 1957 (Madras Act XXII of 1957). Although section 9 (2) aforesaid directs this clause to be added to section 2, the addition has been made to section 3, as the reference to section 2 is a mistake.

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

(1) The <sup>1</sup>[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.

State Government to prescribe jurisdiction of survey officer.

(2) Subject to the control of the <sup>1</sup>[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 <sup>1</sup>[State Government] may direct.

State Government may delegate powers of control.

(3) The <sup>1</sup>[State Government] may delegate its powers under sub-

sections (1) and (2) to such officer or authority as it thinks fit.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

## **CHAPTER 2 THE SURVEY OF GOVERNMENT LANDS**

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

The <sup>1</sup>[State Government] or, subject to the control of the <sup>1</sup>[State Government], any officer or authority to whom this power 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.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

### **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 connexion 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 or in the boundaries of which the survey has been ordered.

### **7. Survey officer to carry out the survey in the prescribed manner :-**

The survey officer shall carry out the survey in the prescribed manner.

### **8. Cost to be charged to persons interested in the lands**

## **surveyed :-**

<sup>1</sup>[(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.

<sup>1</sup>[(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 proscribed manner to the parties to the appeal.

(3) An appeal under sub-section (2) shall be preferred within three months from the date of service of notice under sub-section (1), after excluding the time taken to obtain a copy of the decision:

Provided that the appellate authority may admit on appeal after the expiry of the said period on his being satisfied that the appellant had good and sufficient cause for not preferring the appeal within that period.

Explanation.--The fact that notice under sub-section (1) was not served personally on the appellant shall be deemed to be good and sufficient cause within the meaning of the above proviso.

(4) A copy of the order under sub-section (2) shall be furnished to any person interested in such order on his application and at his cost.]

1. Section 8 was renumbered as sub-section (1) of that section and subsections (2) to (4) were added by section 2 of the Madras Survey and Boundaries (Amendment) Act, 1952 (Madras Act X of 1952).

## **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.

Notice to registered holders of lands affected.

(2) 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 decision.

**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 it in accordance with his decision. The survey officer shall record in writing the reasons for his decision.

Notice to parties to the dispute and to registered holders of land affected.

(2) 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 <sup>1</sup>[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 parties to the appeal. Any modification of the survey officers decision, ordered by the appellate authority, shall be noted in the record prepared under section 9 or 10, as the case may be.

(2) <sup>2</sup>[A copy of the order and a copy of the map 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.

1. These words and figures were substituted for the words and figures "sections 9 or 10" by section 3 of the Madras Survey and Boundaries (Amendment) Act, 1952 (Madras Act X of 1952).

2. These words were substituted for the words "A copy of the Order under section 10 Or 11 (1) and a copy of the order regarding the boundaries as determined under section 9, 10 or 11 (1) shall be furnished to any person interested in such orders" by section 3 of the Madras Survey and Boundaries Act, 1923 (Validation) Act, 1924 (Madras Act II of 1925).

**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 <sup>1</sup>[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.

(b) No appeal preferred after the expiry of the said period shall be admitted, provided that the appellate authority may admit an appeal after the expiry of the said period on his being satisfied that the appellant had good and sufficient cause for not preferring the appeal within such period.

Proviso.

Explanation.--The fact that notice under <sup>1</sup>[section 9 or 10] was not served personally on the appellant shall be deemed to be good and sufficient cause within the meaning of the above proviso.

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

1. These words and figures were substituted for the words and figures "sections 9 or 10" by section 3 of the Madras Survey and Boundaries (Amendment) Act, 1952 (Madras Act X of 1952).

### **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 orders 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 posted 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 there in have been correctly determined and recorded.

### **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 Parts II and III of the Indian Limitation Act, 1908 (Central Act XI of 1908), 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 <sup>1</sup>[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.

Notice to the registered holder.

(2) Before a survey officer or 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.

Notice to cultivator or other person interested.

(3) If the notice under <sup>2</sup>[sub-section (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.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for the word "Provincial" by the Adaptation Order Of 1950.

2. This word, brackets and figure were substituted for the word, brackets and figure "sub-clause (2)", by section 4 of, and the Third Schedule to, the Madras Repealing and Amending Act, 1957 (Madras Act XXV of 1957).

### **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 mark on or 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 THE SURVEY OF ESTATES**

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

The <sup>1</sup>[State Government], or subject to the control of the <sup>1</sup>[State Government], any officer or authority to whom this power may be 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 a boundary, of any person interested therein; or

(b) without such application whenever in the opinion of the <sup>1</sup>[State Government] such survey is necessary--

(i) for the better or more convenient assessment or levy of irrigation cess;

(ii) for any other reason to be recorded prior to the issue of such notification:

Provided (1) that any person making an application under clause (a) shall forward with his application a statement in writing signed by him to the effect that he will pay the whole cost of the survey and if required will deposit the amount in a Government treasury before the survey is commenced and (2) that any survey commenced under that clause may be stopped on the withdrawal of his application by the applicant unless the <sup>1</sup>[State Government] sees reason to direct the continuance of the survey in virtue of the power conferred on it by clause (b).

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for the word "Provincial" by the Adaptation Order of 1950.

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

Except as provided in sections 19 and 20, the conduct of such

survey and 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 a survey officer, the granting of copies thereof and the effect of such orders, and of the decisions 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 appeals against such orders.

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

All costs incurred by the <sup>1</sup>[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; the cost of a survey directed under clause (b) (i) and (ii) of section 17 shall be borne by the <sup>1</sup>[State Government] unless otherwise provided by any law for the time being in force.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for the word "Provincial" by the Adaptation Order of 1950.

**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 <sup>1</sup>[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.

Apportionment how made.

(2) The apportionment under sub-section (1) shall be made in the prescribed manner.

Cost so apportioned recoverable by proprietor from tenants.

(3) 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.

Consequences ensuing on completion of survey of an estate.

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

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for the word "Provincial" by the Adaptation Order of 1950.

## **21. Duty of tenants :-**

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) 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 <sup>1</sup>[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.

Duties of village officers.

(ii) 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, removal 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, removed 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.

1 The words "Provincial Government" were substituted for the

words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for the word "Provincial" by the Adaptation Order of 1950.

#### **CHAPTER 4 MISCELLANEOUS**

##### **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 documents :-**

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 purposes 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. 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**

**:-**

(i) 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 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 9 per cent per annum.

Person claiming an interest may pay charges payable by proprietor or registered holder and acquire a charge.

(ii) 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.

Extent of such charges.

(iii) 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 <sup>1</sup>[State Government] may, after previous publication, make rules to carry out the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may--

(a) prescribe for different localities the unit of survey, the subdivisions thereof and the description of the survey marks; and provide for the maintenance, renewal and repair of such marks;

(b) provide for the collection and record of any information in

respect of any land which has been or is about to be surveyed;  
(c) define the classes of officers to be appointed to do duty under this Act and the powers to be exercised by such officers;  
(d) prescribe and regulate the procedure to be followed by those officers in the conduct of proceedings under this Act;  
(e) provide for the publication of all notifications issued under this Act and for the form, issue and service of all orders, communications and notices to be issued, communicated, given or served under this Act;  
(f) regulate the furnishing of survey marks, labour and other matters necessary to surveys notified under this Act and the recovery of charges incidental thereto where they are recoverable;  
(g) provide for the apportionment of all charges, directed to be apportioned by this Act and for the determination of the cost of labour employed and of the survey marks used in any such survey;  
(h) prescribe the fees payable for processes issued and copies granted under this Act; and  
(i) prescribe the manner in which arbitrators are to be appointed and regulate the procedure to be followed by them.

(3) All such rules shall be laid before <sup>2</sup>[each of the <sup>3</sup>(Houses) of the <sup>4</sup>(State) Legislature] for a period of not less than two months while <sup>5</sup>[that House] is in session.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950

2. These words were substituted for the words "the Legislative Council" by the Adaptation Order Of 1937.

3. This word was substituted for the word "Chambers" by the Adaptation (Amendment) Order of 1950.

4. This word was substituted for the word "Provincial" by the Adaptation (Amendment) Order of 1950.

5. The words "that Chamber" were substituted for the words "the Council" by the Adaptation Order of 1937 and the word "House" was substituted for "Chamber" by the Adaptation (Amendment) Order of 1950.

## **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

anything in good faith done or purporting to be done under this Act.