

## **Tamil Nadu Survey And Boundaries Act, 1923**

### **8 of 1923**

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### **Tamil Nadu Survey And Boundaries Act, 1923**

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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 laws 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 Governor of India Act. It is hereby enacted as follows:-

#### **CHAPTER 1 Chapter I**

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

(1) This Act may be called the (Tamil Nadu) Survey and Boundaries Act, 1923.

(2) Local extent.- It extends to the whole of the (State of Tamil Nadu).

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

The Tamil Nadu Survey and Boundaries Act, 1897, is hereby repealed.

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

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

(i) Estate.- "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 9a), (b) and (c), which is held on a permanent undertenure.

(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 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. means the person in whose name the land in question is registered in the Government accounts of he village: Provided that when any person other than the registered holder is in lawful management of Government land otherwise than as agent or servant 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 name 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.

(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 resurvey.

(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.

(x) Village headman, village accountant.- 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".

#### **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 office or authority appointed by it in this behalf, every person 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-section (1) and (2) to such officer or authority as it thinks fit.

### **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 State Government or subject to the control of the State Government, any officer or authority to whom this power may be delegated by it may by notification orders 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 valid notice to persons 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 the survey has been ordered.

#### **7. Survey Officer To Carryout The Survey In The Prescribed Manner :-**

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

### **8. Cost To Be Charged Of Person Interested In The Lands Surveyed :-**

(1) The cost, if any, of the labour employed and of the survey marks used in and survey notified under Section 5, shall be determined and apportioned in the prescribed manner among the person 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 may appeal to the prescribed officer, whose decision, with reasons therefore, shall be recorded in writing; and notice of such decision shall be given in the prescribed manner to the parties to the appeal shall be given in the prescribed 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 an appeal after the expiry of the said period on his being satisfied that the applicant had good and sufficient cause for not preferring the appeal without 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 provision.

(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.

### **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 lands 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 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.

(2) Notice to parties to the dispute and to registered holders of lands affected.- Notice of every decision for 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 therefore 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) 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.

#### **12. Period Within Which Appeal Should Be Preferred :-**

(a) An appeal under Section 11 shall be preferred within (one month) 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 (one month) allowed for appeal.

(b) Proviso.- 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 he appeal within such period.

Explanation.- The fact that notice under 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.

**12A.** Second Appeal :-

(1) A second appeal shall lie to such authority as may be prescribed against the orders passed on appeal by the appellant authority under Section 11 and the provisions of the said Section 11 shall, so far as may be, apply to such appeal.

(2) Every appeal under this section shall be preferred within sixty days from the date of service of notice under sub-section (1) of Section 11:

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

(3) No appeal under this section shall be admitted after the issue of the notification specified in Section 13.

**12B.** Revision :-

(1) The Director of Survey and Settlement may on his own motion call for and examine an order passed or proceeding recorded, under Sections 11 or 12-A to satisfy himself as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed thereon; and if, in any case, it appears to the Director of Survey and Settlement that any such proceeding, decision or order should be modified, annulled, reversed or remitted for reconsideration, he may pass orders accordingly:

Provided that the Director of Survey and Settlement shall not pass any order prejudicial to any party unless he has been given a reasonable opportunity of being heard:

Provided further that no revision shall be made after the issue of the notification specified in Section 13.

(2) The Director of Survey and Settlement shall not pass any order under subsection (1), if-

(a) the time for appeal against that order or for filing a suit in the Civil Court has not expired; or

(b) the order has been made the subject of an appeal or of a revision to any appellate authority prescribed under the Act; or

(c) the order has been made the subject of a suit instituted in a Civil Court.

### **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 Sections 9,10,11, 12-A or 12-B 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 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.

### **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 Sections 9,10,11,12-A or 12-B may, subject to the provisions of Parts II and III of the Limitation Act, 1963 (Central Act 36 of 1963) institute a suit within three years from the date of the notification under Section 13 to set aside or modify the said determination and 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 or 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 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 not be less than fifteen days from the date of service thereof.

(3) Notice to cultivator or other person interested.- If the notice under 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.

#### **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 State Government of subject to the control of the State Government any office 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 wherever in the opinion of the 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 State Government sees reason to direct the continuance of the survey in

virtue of the power conferred on it by clause (b).

**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 survey officer, the granting of copies thereof and the effect of such orders, and of the decisions passed in appeals there from 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 State Government on account of a survey directed under clause (a) of Section 17u 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 survey directed under clause (b)(i) and otherwise provided by any law for the time being in force.

**20. State Government May Direct Apportionment Of Costs Among Land 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 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 sub-section (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 subsections (2) and (3) of Section 15, at the cost of the State Government 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.

(ii) Duties of Village Officers.- It shall be 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 marks have been destroyed, injured, removed or altered, to report the fact to that 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 4 MISCELLANEOUS**

## **22. Power To Enter Upon, Examine And Clear Obstructions 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 specifically 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 purposes of any survey, inquiry or other proceedings under the 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 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 and to the extent of the expenses so incurred or recovered from him with interest thereon