

# THE ORISSA SURVEY AND SETTLEMENT ACT, 1958

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## SCHEDULE

## ORISSA ACT 3 OF 1959

**\*THE ORISSA SURVEY AND SETTLEMENT  
ACT, 1958**

*[Received the assent of the Governor on the 12th  
January 1959, first published in an extra-  
ordinary issue of the Orissa Gazette,  
dated the 27th January 1959]*

AN ACT TO CONSOLIDATE AND AMEND THE LAWS  
RELATING TO SURVEY, RECORD-OF-RIGHTS  
AND SETTLEMENT OPERATIONS IN THE  
STATE OF ORISSA

**W**HEREAS it is expedient to consolidate and  
amend the laws relating to survey, record-of-  
rights and settlement operations in the State of  
Orissa ;

It is hereby enacted by the Legislature of the  
State of Orissa in the Ninth Year of the Republic of  
India as follows :—

## CHAPTER I

## PRELIMINARY

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Orissa Survey  
and Settlement Act, 1958.

(2) It extends to the whole of the State of Orissa.

(3) This section shall come into force at once.  
The State Government may, by notification in the  
official Gazette, direct that all or any of the  
remaining provisions of this Act shall come into  
force in such area and on such date as may be  
specified in the notification.

Definitions:

2. In this Act, unless there is anything repugnant  
in the subject or context—

(1) "Agricultural year" means the year as  
specified in the tenancy laws in force or in the

\* For the Bill see *Orissa Gazette Extraordinary*, dated the 16th April 1958



absence of any such laws, as may be prescribed by the Government in respect of different districts or localities according to local custom or usage ;

(2) "Collector" means the Collector of a district and includes any officer appointed either generally or specially by the Government to discharge all or any of the functions of a Collector under this Act ;

(3) "Holding" means a parcel or parcels of land held by a tenant in a single village and forming subject of a separate tenancy ;

(4) "Government" means the State Government of Orissa ;

(5) "Landlord" means a person immediately under whom a raiyat holds and includes the Government ;

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

(7) "Raiyat" includes—

(a) primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family, or by hired servants, or with the aid of partners, and includes also the successors in interest of persons who have acquired such a right ;

*Explanation*—Where a tenant of land has the right to bring the land under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it.

(b) a person who holds for the purpose of agriculture raiyati land in an estate on condition of paying to landlord the rent which is legally due upon it ;

(c) a person who is a tenant holding land of another person, and is or, but for a special contract, would be liable to pay rent for that land to that other person ;

(d) a tenant or raiyat having occupancy right in his holding under any tenancy law, custom or usage continued in force in the merged territories ;

(8) "Rent" means whatever is lawfully payable or deliverable in cash or in kind or partly in cash and partly in kind by a tenant to his landlord on



account of the use or occupation of the land held by him. It shall also include money recoverable under any enactment for the time being in force as if it were rent ;

(9) "Revenue Court" means any Court (other than a Civil Court) having jurisdiction under this Act to entertain suits or other proceedings ;

(10) "Revenue Officer" means any officer whom the Government may appoint to discharge any of the functions of a Revenue Officer under the provisions of this Act ;

(11) "Survey" includes all or any of the operations incidental to the determination, measurement and record of a boundary or boundaries or any part of a boundary and includes a re-survey ;

(12) "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 ;

(13) "Survey Officer" means any person appointed to be a Survey Officer under section 4 ;

(14) "Village" means the area defined, surveyed and recorded as a distinct and separate village in the general land revenue survey or in the revenue accounts and for which the revenue accounts are separately maintained in Government record or which is recognised by Government or declared by Government for the purposes of this Act to be a village and includes any hamlet or hamlets which may be attached thereto and where the survey has not been made by or under the authority of Government, village means such area, as the Collector may, with the sanction of the Board of Revenue, by general or special order, declare to constitute a village ;

(15) words and expressions used in this Act but not defined shall have the same meaning as assigned to them in the Tenancy Acts or Laws, Rules, Regulations, custom or usage in force in any part of the State of Orissa.

## CHAPTER II

### SURVEY

Power to  
order a  
survey.

3. (1) The Government or subject to the control of the Government, any officer or authority so empowered by them may at any time by notification order a survey to be made of any land in the State

or of the boundary of any land or of the boundary forming the common limit of land at the disposal of Government and any other land.

(2) The Government shall be competent at any time during the continuance of the proceedings of any survey, to issue an order to stop such survey and, if subsequently so ordered such proceedings shall be proceeded with from such stage as may be directed.

(3) The Government may also issue a notification ordering a survey —

(a) on the request of—

(i) any Local authority ; or

(ii) other persons ;

who agree to pay such amount as may be directed by the Government towards the cost of survey ; or

(b) where in any local area, not less than one-half of the total number of raiyats apply for the survey, depositing or giving security for such amount towards the payment of expenses as the Government may direct.

Appoint-  
ment of  
Survey  
Officer, his  
powers,  
delegation  
of powers  
and manner  
or survey.

4. (1) The Government may by notification appoint any Revenue Officer or other Officer or 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) Subject to the control of the Government and of any officer or authority appointed by them in this behalf, every officer or person so appointed shall exercise and perform the powers and duties of a Survey Officer within such local limits as the Government or the authority to whom the power may be delegated may direct.

(3) The Government may delegate their powers under sub-sections (1) and (2) to such officer or authority as they may deem fit.

(4) The survey shall be conducted in such manner as may be prescribed by the Government.

Proclama-  
tion to be  
published  
by Survey  
Officers.

5. (1) When any survey is ordered under section 3, the Survey Officer shall publish a proclamation 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.

Such proclamation to be valid notice to persons interested.

(2) A proclamation 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.

Survey Officer may enter upon land, offer compensation for damages and may settle boundary disputes.

6. (1) After the issue of the proclamation under sub-section (1) of section 5 the Survey Officer, or his subordinates or any other officer acting under the authority of the Survey Officer shall have power to enter upon the land under survey, examine and measure such land and clear by cutting down or removing any trees, jungle, fences, standing crops or other material obstructions to the boundaries or other lines the clearance of which may be necessary for the purposes of the survey.

Compensation.

(2) The Survey Officer shall, after assessing the loss occasioned by any clearance as is mentioned in sub-section (1), offer reasonable compensation to the owners of the materials so cleared.

Powers of Survey Officer to determine and record disputed boundary.

(3) (i) 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.

(ii) Where a boundary is disputed, the Survey Officer, after making such inquiry in the manner prescribed, 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 persons interested in the land affected.

(iii) Notice of every decision of the Survey Officer under the preceding clauses shall be given in the prescribed manner to the parties to the dispute and persons interested in the lands the boundaries of which may be affected by the decision.

(4) Any person affected by a decision under sub-section (2) or (3) 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. Any modification of the Survey Officer's decision in appeal shall be noted in the record.



Period  
within  
which appeal  
shall be  
preferred.

(5) (a) An appeal under sub-section (4) shall be preferred within three months from the date of service of notice under clause (iii) of sub-section (3) 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.

(c) No appeal shall be admitted under clause (b) after the issue of the notification specified in section 7.

Completion  
of Survey  
to be  
notified.

7. (1) When the survey ordered under section 3 has been completed by the Survey Officer, he shall publish the same in the Gazette and in any other prescribed manner.

(2) Unless the survey so notified under sub-section (1) is modified in appeal by the prescribed appellate authority or by a decree of Civil Court the record of the survey prepared by the Survey Officer shall be conclusive proof of the correctness of the record of such survey.

Persons res-  
ponsible for  
the mainten-  
ance of sur-  
vey marks.

8. (1) Subject to such conditions as may be prescribed in this behalf, every person interested in the 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 Collector may, at the cost of the Government maintain, renew and repair such survey marks, determine and apportion the cost of so doing, and recover such costs as a public demand or arrear of land revenue as the case may be.

(2) Before the Collector renews or repairs any survey marks he shall serve a notice in writing on the cultivator or other person interested in the prescribed manner intimating him the action proposed to be taken by him specifying the time fixed for such action.

Recovery of  
cost of sur-  
vey.

9. (1) The whole or such portion of the costs as may be ordered in respect of survey made on the application of parties under sub-section (3) of section 3 shall be borne by them :

Provided that where the application is made under clause (b) of the said sub-section the amount recoverable under this section shall be recovered from all the raiyats of the local area including the applicants.

(2) The Government may prescribe the manner in which such costs shall be assessed. The costs so assessed shall be recovered as a public demand or arrear of land revenue as the case may be.

Institution  
of suit in  
Civil Court.

10. (1) Any person deeming himself aggrieved by a survey declared final under section 7 may institute a suit within three years from the date of notification under section 7 to set aside or modify the survey as mapped and recorded by Survey Officer :

Provided that no such suit shall be entertained in any Court of Law until after the expiry of the period provided for filing an appeal under sub-section (5) of section 6 or if an appeal has been preferred until after the disposal of the appeal.

(2) The alterations, if any, ordered under sub-section (1) shall be noted in the map and records made final under section 7 in the prescribed manner.

### CHAPTER III

#### RECORD-OF-RIGHTS

Power of  
Government  
to order  
preparation  
of record-of-  
rights.

11. (1) The Government may, in any case if they think fit, make an order directing that a record-of-rights be prepared or revised by a Revenue Officer in respect of lands in any local area in the State in accordance with such rules as may be made by the Government in that behalf.

(2) The Government may also make an order under the preceding sub-section—

(a) on the request of—

- (i) any Local authority ; or
- (ii) other persons ;

who agree to pay such amount as may be directed by the Government towards the cost of preparation of the record-of-rights ; or

(b) on the request of not less than one-half of the total number of raiyats having land in the village and on their depositing such amount for payment of expenses as the Government may direct.

(3) A notification in the Gazette of an order under this section shall be conclusive evidence that the order has been duly made. Such notification may direct that the record-of-rights may be prepared or revised in the prescribed manner.

(4) When an order is made under sub-section (1) the Revenue Officer shall proceed to prepare or revise the record-of-rights.

(5) Where any proceedings in respect of the preparation of the record-of-rights have been commenced before the date on which this Act comes into force and such record-of-rights have not been finally published the proceedings may be continued, reopened or recommenced from any stage as may be decided by the Government. The record-of-rights shall thereupon be deemed to have been duly prepared and finally published under this Act.

Publication  
of prelimi-  
nary record,  
objection  
and amend-  
ment.

12. (1) When the record-of-rights has been prepared or revised, the Revenue Officer shall publish a draft of the said record prepared or revised, in the prescribed manner and for the prescribed period, and shall receive and consider any objections which may be made to any entry therein or any omission therefrom, during the period of publication :

Provided that it shall be competent to the Government to declare any record prepared or revised otherwise than under the foregoing provisions to be a draft record-of-rights for the purpose of this section.

Publication  
of final  
record.

(2) Such objections shall be considered and disposed of in the manner prescribed. The Revenue Officer shall thereupon finally frame the record and shall cause it to be finally published in the prescribed manner and such publication shall be conclusive evidence that the record has been finally made under this Chapter.

(3) Separate drafts and final records may be published for different local areas or parts thereof.



Presumption  
as to final  
publication  
and correc-  
tion of  
record-of-  
rights.

**13. (1)** In any suit or other proceeding in which a record-of-rights prepared and published under this Chapter or a duly certified copy thereof or extract therefrom, is produced, such record-of-rights shall be presumed to have been finally published, and a certificate signed by the Revenue Officer or by the Collector of any district in which the land to which the record-of-rights relate is wholly or partly situate, stating that a record-of-rights has been finally published under this Chapter shall be conclusive evidence of such publication.

(2) The Government may, by notification, declare, with regard to land in any local area or village that a record-of-rights has been finally published 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, until 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 later 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 such entry was made.

Appeal  
against the  
order of  
Revenue  
Officer.

**14.** An appeal, if presented within two months from the date of final publication of the record-of-rights under sub-section (2) of section 12 shall lie from every order passed by the Revenue Officer to such superior Revenue Authority as the Government may prescribe or to any officer specially empowered by the Government in this behalf.

Revision by  
Board of  
Revenue.

**15.** The Board of Revenue may in any case direct—

(a) of its own motion the revision of any record-of-rights, or any portion of a record-of-rights at any time after the date of final publication under sub-section (2) of section 12 but not so as to affect any order passed by a Civil Court under section 24 ;

(b) on application, made within two years from the date of final publication under sub-section (2) of section 12, the revision of record-of-rights or any portion thereof whether within the said period of two years or thereafter but not so as to affect any order passed by a Civil Court under section 24 :

Provided that no such direction shall be made until reasonable opportunity has been given to the parties concerned to appear and be heard in the matter.

*Record of rights prepared otherwise than under the provisions of this Act to be deemed to be finally published.*

16. (1) The Government may declare that any record-of-rights prepared and maintained under any law or custom having the force of law shall be deemed to be a record-of-rights finally published under this Chapter.

(2) In order to keep the record-of-rights up to date, the Government may direct that the same may be maintained in the prescribed manner.

*Recovery of cost of preparation of record of rights.*

17. (1) The cost of preparation of record-of-rights on an application made under sub-section (2) of section 11 or such portion thereof as may be ordered shall be borne by the applicants :

Provided that where the application is made under clause (b) of the said sub-section the amount recoverable under this section shall be recovered from all the raiyats of the village including the applicants.

(2) The Government may prescribe the manner in which such cost shall be assessed. The cost so assessed shall be recovered as a public demand or arrear of land revenue as the case may be.

#### CHAPTER IV

##### SETTLEMENT OF RENT

*Settlement of rent.*

18. (1) The Government may at any time, direct a Revenue Officer to settle rent in respect of land situate in any village or local area for which a record-of-rights has already been finally published.

(2) The Government may also issue a direction under the preceding sub-section—

(a) on the request of—

(i) any Local authority ; or

(ii) other persons ;

who agree to pay such amount as may be directed by the Government towards the cost of the settlement of rent ; or

(b) on the request of not less than one-half of the total number of raiyats having land in any local area on their depositing such amount for payment of expenses as the Government may direct.

(3) All amounts payable under clause (a) of sub-section (2) shall be recovered as a public demand or arrear of land revenue as the case may be.

Principles  
for fixing  
rent.

19. (1) Notwithstanding anything contained in any law or custom for the time being in force, the Government may prescribe the principles for fixing fair and equitable rent having regard to—

(a) the average price of crops during the preceding ten years other than the years which the Government may notify to be or to have been either famine years or abnormal years in respect of any local area ;

(b) crop or crops normally grown on such land ;

(c) situation of land and the nature of the soil ;

(d) the maximum rent assessed on land of similar quality and productivity elsewhere in the State.

(2) Notwithstanding any law, custom or contract in force, the rent so fixed shall be deemed to be the rent payable for the land.

Manner of  
settlement  
of rent.

20. The Revenue Officer appointed to settle fair and equitable rent in respect of any local area shall settle it in the prescribed manner.

Preliminary  
publication  
and amend-  
ment of  
Settlement  
Rent Roll.

21. (1) When rent has been fixed the Revenue Officer shall cause a record thereof to be made to be called the Settlement Rent-roll showing the name of the landlord and raiyat, the extent of each survey plot and each holding and such other particulars as the Government may prescribe including the amount of rent settled therefor. He shall cause a copy thereof to be published in the prescribed manner and for the prescribed period and shall receive and consider any objections made to any entry in such record or omission therefrom during the period of publication and shall dispose of such objections according to such rules as the Government may prescribe.

(2) The Revenue Officer may, of his own motion or on the application of any party aggrieved at any time before a Settlement Rent-roll is submitted to the confirming authority under section 22 revise the rent entered therein :

Provided that no such entry shall be revised until reasonable notice has been given to the parties concerned to appear and be heard in the matter.



Final revision of Settlement Rent Roll and incorporation of the same in the record-of-rights.

**22.** (1) When all objections have been disposed of under the preceding section, the Revenue Officer shall submit the Settlement Rent-roll to the confirming authority appointed by the Government in this behalf, with a full statement of the grounds of his proposals and a summary of the objections, if any, which he has received.

(2) The confirming authority may sanction the settlement with or without amendment, or may return it for revision by the Revenue Officer. The confirming authority shall have power to modify any order passed by Revenue Officer on any objection made under section 21 :

Provided that no entry shall be amended, or omission supplied until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

(3) After the settlement of rent has been sanctioned by the confirming authority, the settled rent shall be incorporated in the record-of-rights and the same shall be finally republished in the prescribed manner and such publication shall be conclusive evidence that the rent has been duly settled.

Appeal.

**23.** An appeal, if presented within three months from the date of the final republication of the record-of-rights under sub-section (3) of section 22, shall lie from every order passed by the Revenue Officer on any objection made under section 21 with such modifications if any, as may be made by the confirming authority under section 22 to such superior Revenue authority as the Government may, prescribe or to any officer specially empowered by the Government in this behalf.

Jurisdiction of Civil Court in matters relating to entries in Settlement Records.

**24.** (1) Any person aggrieved by an entry with regard to rent incorporated in a record-of-rights finally republished under sub-section (3) of section 22 or by an omission to settle a rent, may institute a suit in the Civil Court which would have jurisdiction to entertain a suit for the possession of land to which the entry relates or in respect of which the omission is made for the relief he claims.

(2) Such suit must be instituted within six months from the date of final republication of the record-of-rights under sub-section (3) of section 22 or if an appeal has been presented to a Revenue authority under section 23 then within six months from the date of the disposal of such appeal.

(3) When a Civil Court has passed final orders or a decree under this section, it shall notify the same to the Collector of the district.

Revision by  
the Board  
of Revenue.

**25.** The Board of Revenue may, in any case —

(a) of its own motion, at any time after the date of final publication under sub-section (3) of section 22 ; or

(b) on application within two years from the said date ;

direct the revision of the rent so settled but not so as to affect any order passed by a Civil Court under section 24 :

Provided that no such direction shall be made until reasonable opportunity has been given to the parties concerned to appear and be heard in the matter.

Entry of  
note of  
decisions in  
record-of-  
rights.

**26.** A note of all decisions on appeal under the preceding sections and of all decrees of Civil Court notified to the Collector of the district under sub-section (3) of section 24 shall be made in the record-of-rights in which the Settlement Record has been incorporated and such note shall be considered as part of the Record.

Presumption  
as to  
correctness  
of rents  
settled.

**27.** Subject to the provisions of sections 23 to 25 all rents settled under sections 19 to 22 and incorporated in a record-of-rights finally republished under sub-section (3) of section 22 shall be deemed to have been correctly settled and to be fair and equitable rent within the meaning of this Act.

Date from  
which  
settled rent  
takes effect.

**28.** When any rent is settled by a Revenue Officer under this Chapter it shall take effect from the beginning of the agricultural year next after the date of sanction by the confirming authority under sub-section (2) of section 22 :

Provided that the Government may prescribe an earlier date from which such settlement shall take effect and that such date shall not be earlier than the date of notification under section 18.



## CHAPTER V

## JURISDICTION AND PROCEDURE

Entertain-  
ment of  
applications  
in Revenue  
Courts.

**29.** (1) A Revenue Officer or Revenue authority hearing any application under this Act and the Board of Revenue or other authority exercising appellate or revisional jurisdiction therefrom shall hear and determine such application or exercise such jurisdiction as a Revenue Court.

No Civil Court in the exercise of its original jurisdiction shall take cognisance of any dispute or matter in respect of which such applications might be brought or made.

(2) The decision of a Revenue Court or of an Appellate or Revisional authority in any proceedings under this Act on a matter falling within the exclusive jurisdiction of the Revenue Court shall be binding on the parties thereto and persons claiming under them in any proceedings in a Civil Court in which such matter may be in issue between them.

(3) The decision of a Civil Court on any matter falling within its jurisdiction shall be binding on the parties thereto and persons claiming under them in any proceedings before a Revenue Court or an Appellate or Revisional authority in which such matter may be in issue between them.

Application  
of Code of  
Civil  
Procedure  
1908, to  
proceedings  
under this  
Act.

**30.** The Government may from time to time make rules consistent with this Act declaring that any provisions of the Code of Civil Procedure, 1908, <sup>v of 1908</sup> shall not apply to applications, appeals or other proceedings under this Act in any Revenue Court or to any specified classes of such applications, appeals or proceedings or shall apply to them subject to modifications and additions specified in the rules.

Power of  
Collector  
and Board  
of Revenue  
to distribute  
work.

**31.** (1) The District Collector may by written order, distribute in such manner as appears to him fit any business cognisable under this Act by any Revenue Officer in the district and by like order he may withdraw any case pending before such Revenue Officer and either dispose of the same himself or by written order refer it for disposal to any other Revenue Officer in the district.



(2) The Board of Revenue shall have the like powers of distribution, withdrawals and reference in respect of all District Collectors notwithstanding any order of the said Collector passed under sub-section (1) in respect of Revenue Officers subordinate to him.

Power to call for and revise proceedings of Revenue Officers.

32. The Board of Revenue may call for the record of any proceeding before a Revenue Officer from whose decision no appeal lies if such Officer appears to have exercised a jurisdiction not vested in him by law or to have failed to exercise a jurisdiction so vested or while acting in the exercise of his jurisdiction to have contravened some express provision of law affecting the decision on the merits where such contravention has produced a serious miscarriage of justice and the Board of Revenue, after hearing the parties if they attend shall pass such order as it seems fit.

Delegation of powers.

33. The Government may by notification, delegate the powers of the Board of Revenue to an Officer not below the rank of a Revenue Divisional Commissioner.

Limitation for applications.

34. Subject to the provisions of the next following section every appeal presented and application made after the period of limitation specified therefor shall be dismissed although limitation has not been set up as a defence.

Application of the Indian Limitation Act, 1908.

35. Subject to the provisions of this Act the provisions of the Indian Limitation Act, 1908, except sections 6, 7, 8, 9, 19 and 20 shall apply to all appeals and applications mentioned in section 34.

## CHAPTER VI

### MISCELLANEOUS

Simultaneous record of rights and settlement of rent proceedings.

36. Notwithstanding anything contained in Chapters III and IV the Government may, in any case if they think fit, make an order directing that proceedings relating to preparation or revision of record-of-rights and settlement of rent shall, with respect to any local area, be carried on simultaneously and upon such order being made the provisions contained in Chapters III and IV shall, *mutatis mutandis* apply to such proceedings.

Demarcation  
of village  
boundaries.

**37. (1)** In the demarcation of village boundaries for the purpose of making a survey and preparing a record-of-rights under this Act a Revenue Officer shall, so far as is possible, preserve as the unit of survey and record the area contained within the exterior boundaries of the village maps of the revenue survey and where village maps prepared at a previous Revenue Survey exist, he shall not, without the sanction of the Board of Revenue, adopt any other area as such unit.

(2) Notwithstanding anything contained in the preceding sub-section the Government may declare by notification in the Gazette, any local area to constitute a village.

Validation  
of publica-  
tion of  
certain  
past records

**38.** All records published before the date of commencement of this Act, whether in draft or final form under the provisions of any other Tenancy law for the time being in force or under orders of the Government, shall be deemed to have been duly published under this Act.

Effect of  
settlements  
of rent made  
before the  
date of  
commence-  
ment of this  
Act.

**39.** Every Settlement of rent made before the date of commencement of this Act shall be deemed to have been made under the provisions of this Act and shall be final subject to the result of a suit, appeal or revision if any provided under this Act.

Protection  
of action  
taken under  
this Act.

**40.** No suit or other legal proceeding shall lie against any person for anything in good faith done or purporting to be done under this Act or any rule or order made thereunder.

Correction  
of arith-  
metical  
mistakes.

**41.** Any Revenue Officer or Survey Officer specially empowered by the Government in this behalf may on application or on his own motion, correct any clerical or arithmetical mistake in any map, plan or in any record-of-rights or any error arising therein from any accidental slip or omission :

Provided that no such correction shall be made unless reasonable notice has been given to the parties concerned.

Limitation  
of jurisdic-  
tion of Civil  
Courts in  
matters  
other than  
rent relating  
to record-of-  
rights.

**42.** No suit shall be brought in any Civil Court in respect of any order directing survey, preparation of record-of-rights or settlement of rent under Chapters II, III and IV respectively or in respect of framing, publication, signing or attestation of such record or any part thereof save as provided in sections 10 and 24 :

Provided that any person who is dissatisfied with any entry in or omission from a record framed in pursuance of an order under sub-section (1) of section 11 which concerns his right may institute a suit for declaration of his right or rights under Chapter VI of the Specific Relief Act, 1877. 1 of 1877

Powers to  
make rules.

43. (1) The Government may, after previous publication, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power the Government may make rules :—

(i) to regulate the procedure to be followed by Collectors and Revenue Officers in the discharge of any duty imposed or the exercise of any power conferred upon them by or under this Act and may by such rules confer upon any such Officer—

(a) any power exercised by a Civil Court in the trial of suits ;

(b) power to enter upon any land and to survey, demarcate and make a map of the same and any power exercisable by any Survey Officer under Chapter II of this Act ; and

(c) power to cut and thrash the crops on any land and weigh the produce with a view to estimating the capabilities of the soil ;

(ii) to prescribe the forms to be used and the mode of service of notices issued under this Act where no form or mode is prescribed by this or any other Act ;

(iii) as to the procedure to be followed in applications under this Act ;

(iv) as to the fees, costs and charges to be paid for the purposes of this Act ;

(v) for the survey of lands and the preparation of a record-of-rights and of Settlement of rent ;

(vi) prescribing the superior Revenue authority to whom appeals shall lie from orders of a Revenue Officer on objections to a preliminary record of Settlement of rent ;

(vii) prescribing the form in which registers shall be maintained of applications and appeals disposed of under this Act ;

(viii) prescribe the units of measurement.



Rules to be  
laid before  
Assembly.

**44.** All rules made under section 43 shall be laid as soon as possible after they are made before the Orissa Legislative Assembly for a total period of fifteen days which may be comprised in one session or in two or more sessions, and shall be subject to such modifications as the Assembly may make during the said period.

Repeal.

**45.** With effect from the date this Act comes into force in any area the laws mentioned hereunder shall, with respect to the said area, be repealed namely:—

(a) any law in force in any of the merged territories to the extent it is repugnant to the provisions of this Act ; and

(b) the enactments specified in column 2 of the Schedule to the extent specified in column 3 thereof.

Effect of  
repeal.

**46.** (1) Nothing contained in this Act shall in any way affect any proceedings pending on the date this Act comes into force under any of the enactments or laws referred to in section 45 and any other proceeding pending before any Court on the aforesaid date under any of the said laws and all such proceedings shall continue as if this Act had not come into force.

(2) For removal of doubts it is hereby declared that the right of the Government to realise the costs of all proceedings relating to survey, record-of-rights and settlement of rent whether continued or completed under the enactments specified in the Schedule shall remain unaffected notwithstanding anything contained in this Act.

**47.** If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, do anything which appears to them necessary for purpose of removing the difficulty.

**SCHEDULE**  
**ENACTMENTS REPEALED**  
*( See section 45 )*

Number and year	Short title	Extent of repeal
1	2	3
I of 1875 ..	The Bengal Survey Act	The whole
VIII of 1923	The Madras Survey and Boundaries Act.	The whole
I of 1908 ..	The Madras Estates Land Act.	Chapters I and II. The provisions of other Chapters in so far as they are repug- nant to the provisions of this Act.
II of 1913..	The Orissa Tenancy Act	Chapters XI and XII. The provisions of other Chapters in so far as they are repug- nant to the provisions of this Act.
VI of 1929..	The C. P. Settlement Act	So far as its provisions are repugnant to this Act.
XI of 1898..	The C. P. Tenancy Act..	So far as its provisions are repugnant to this Act.
I of 1920 ..	The C. P. Tenancy Act..	So far as its provisions are repugnant to this Act.
XVIII of .. 1881.	The C. P. Land Revenue Act.	So far as its provisions are repugnant to this Act.
II of 1917..	The C. P. Land Revenue Act.	So far as its provisions are repugnant to this Act.