

Bengal Act I of 1887

[THE CALCUTTA SURVEY ACT, 1887.]

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Bengal Act I of 1887

[THE CALCUTTA SURVEY ACT, 1887.]¹

SUPPLEMENTED

Ben. Act III of 1884.

REPEALED IN PART

Act I of 1903. f Ben.
Act IV of
1894.

AMENDED

Ben. Act I of 1939.

(a) The Government of India (Adaptation of Indian Laws) Order,
1937.

ADAPTED

(h) The Adaptation of
Laws Order, 1950.

{2nd February, 1887.}

An Act to provide for a Survey of the Town of Calcutta.

WHEREAS it is expedient to provide for the survey and demarcation of land in the town of Calcutta;

It is hereby enacted as follows:ô

Preamble.

1. This Act shall be called the Calcutta Survey Act, 1887; (Commencement.)—Rep. by sec. 4 and the Third Sch. of the Amending Act, 1903 (I of 1903).

Short title.

It extends to the town of Calcutta within the local limits of the ordinary original civil jurisdiction of ³[the High Court at Calcutta].

2. In this Act, unless there be something repugnant in the subject or context,ô

Local extent.

"survey" includes identification of boundaries and all other operations antecedent to, or connected with, survey:

Interpretation clause.

"Superintendent" means the Superintendent of Survey under this Act:

"survey".

"land" includes anything attached to the earth or permanently fastened to anything attached to the earth:

"superintendent".

"premises" means any land described as such in the registers of the Corporation of the town of Calcutta or as a holding in the registers of the Calcutta Collectorate:

"land",

"owner" includesô

- (a) the person having permanent interest in any land or premises;
- (b) an agent of, or manager on behalf of, such person;

"premises".

¹LEGISLATIVE PAPERS. ô For Statement of Objects and Reasons, see the *Calcutta Gazette* 1886, Pt. IV, page 141; and for Proceedings in Council, see *ibid.*, 1886, Supplement, pages 2481, 2531; *ibid.*, 1887, Supplement, pages 91 and 98.

²Substituted for the words "Her Majesty's High Court of Judicature at Fort William in Bengal" by para. 3 and the Eleventh Sch. of the Adaptation of Laws Order, 1950.

"owner".

(Sections 3-6.)

- (c) a trustee of such person;
 (d) a body corporate in which land is vested by operation of Statute.

State
 Government
 may order
 survey and
 appoint
 Superin-
 tendent.

3. The [State Government] may, whenever it thinks fit, order, by a notification in the ¹[*Official Gazette*], that a survey shall be made of the lands situated in the town of Calcutta, and for such purpose may appoint a Superintendent of Survey, and one or more Assistant Superintendents of Survey.

The Assistant Superintendents of Survey shall exercise such powers as may be delegated to them by the Superintendent.

Superin-
 tendent may
 enter upon
 land.

4. The Superintendent of Survey shall, for the purposes of this Act, have power, either by himself or by an Assistant Superintendent of Survey or by other officers employed in the survey, to enter, between the hours of sunrise and sunset, upon any land or premises within the local limits aforesaid, without being liable to any legal proceedings whatsoever on account of such entry, or of anything done on such land or premises in pursuance of this Act;

Provided that no such entry shall be made upon lands or premises which may be occupied at the time, unless with the consent of the occupier thereof, or without previously giving the said occupier twenty-four hours' notice of the intention to do so.

Superin-
 tendent to
 give notice
 before
 entering on
 land.

5. Before entering on any land or premises for the purposes of survey, the Superintendent may cause a notice in writing under his hand to be served on (the owner of the land or premises about to be surveyed, and on the owners of contiguous lands or premises, calling upon them to attend either personally or by agent on such land or premises, before him or before such officer as may be authorized by him in that behalf, within a specified time (which shall not be less than three days after the service of such notice) for the purposes of pointing out boundaries, and of allording such information as may be needed for the purposes of this Act; and every person on whom such notice may be served shall be legally bound to attend as required by the notice, and to give any information which may be required so far as he may be able to give it.

Persons
 summoned
 Tailing ID
 appear are
 bound by the
 survey.

6. If, after due service of notice under the last preceding section, any person fails to appear without showing sufficient cause to the satisfaction of the Superintendent, the Superintendent, or such officer as may be authorized by him, may proceed with the survey; and the person

The words "Provincial Government" were first substituted for the words "Local Government." by paragraph "1(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

¹These words were substituted for the words '*Calcutta Gazette*' by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1887.]

(Sections 7-12.)

who is so absent shall be bound by the results of the survey in the same manner and to the same extent as if the survey were made in his presence.

7. If in the course of survey it shall come to the notice of the Superintendent that a dispute exists as to any boundaries which should be surveyed, the Superintendent shall cause an inquiry to be held by an Assistant Superintendent, as hereinafter provided, for the purpose of determining such boundaries.

In case of dispute. Assistant Superintendent to hold an inquiry.

8. When any dispute exists as to any boundaries, the Assistant Superintendent who may be authorized by the Superintendent in this behalf shall cause a notice in writing under his hand to be served on the parties concerned requiring them to appear before him, in person or by an authorized agent, on a specified day, and to produce evidence of possession of the land in dispute.

Procedure in case of dispute as to boundaries.

The Assistant Superintendent shall, on the specified day, or on such other day to which the hearing may be adjourned, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence as he may think necessary, and without reference to the merits of the claim of any of such parties to a right to possess the land in dispute, decide which of the parties is in possession of the said land at the time of the survey.

9. For the purposes of the inquiry aforesaid the Assistant Superintendent shall have power to summon and enforce the attendance of witnesses and compel the production of documents by the same means and in the same manner as is provided in the case of a Court under the Code of Civil Procedure, [1908].

10. After the inquiry has been completed, the Assistant Superintendent shall pass an order in writing defining clearly the subject of dispute, and shall record his decision, and the reasons for such decision.

Power of Assistant Superintendent to enforce attendance of witnesses.

11. An appeal shall lie from any order passed by an Assistant Superintendent under the last preceding section to the Board of Revenue, or to such other authority as the [State Government] may, by notification in the [Official Gazette] appoint in this behalf if preferred within thirty days from the date of such order.

After inquiry. Assistant Superintendent to record his decision.

An appeal shall lie to the Board of Revenue.

12. In every case of disputed boundaries the Assistant Superintendent authorized to hold the inquiry may, on the written

¹This figure was inserted by s. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act 1 of 1939).

²See foot-note 1 on page 538, *nine*.

³See foot-note 2 on page 538, *wife*.

Power to refer to aribi [ration].

Act V of 1908.

The Calcutta Survey Act, 1887,
(Sections 13-17.)

application of the parties, refer the dispute to one or more arbitrators nominated by the parties respectively, and shall fix such time, and allow such extension of time, as may seem reasonable for the delivery of the award:

[Ben. Act I

Provided that, if it appears to the Assistant Superintendent that the [State Government] or the Corporation of Calcutta is interested in any such dispute, he shall appoint, in the former case, the Collector or Deputy Collector of Calcutta, and, in the latter case, the Chairman, Vice-Chairman or Surveyor of the Corporation, one of the arbitrators, unless the parties agree to such officer being appointed sole arbitrator.

On failure of arbitrator load another may (reappointed,

13. Where an arbitrator nominated by a party refuses to act or becomes incapable of acting by reason of death or other sufficient cause, the party by whom he was nominated may, by a written application to the Assistant Superintendent, nominate another arbitrator; and, on being satisfied that the application has been made on sufficient grounds, he shall confirm such nomination; and the arbitrator so appointed may thereupon proceed with the inquiry.

Appointment of an umpire.

14. If the arbitrators differ, the award shall be in accordance with the opinion of the majority, if they are equally divided in opinion, it shall be competent to either or to the Assistant Superintendent, on the written application of the arbitrators or of the parties to the arbitration, to appoint an umpire, and the decision of the umpire determining the boundaries in dispute shall have the force of an award of the arbitrators.

Power to enforce attendance of witnesses in arbitration.

15. The Assistant Superintendent shall, on the application of the arbitrators or umpire, issue the same processes to parties and witnesses as he may issue in inquiries held by himself.

On failure to make an award, Assistant Superintendent may supersede the arbitration.

16. If the arbitrators or the umpire appointed under the preceding section fail to deliver the award within the time allowed by the Assistant Superintendent, he may make an order superseding the arbitration, and in such case he shall proceed with the inquiry.

The award.

17. The award shall be made in writing, and shall be signed by the persons making it, and shall be filed in the office of the Superintendent, with any evidence which may have been taken by the arbitrators or the umpire.

The Superintendent shall lay down the boundaries in accordance with the award.

¹See foot-note I on page 338. *ante*.

(Sections 18-23.)

of 1887.]

18. The Superintendent may at any time cause to be erected, on any land which is to be, or has been, surveyed under this Act, temporary or permanent boundary-marks of such materials and in such number and manner as he may determine to be sufficient.

Superintendent may erect boundary-marks.

19. When any temporary boundary-mark has been erected under the last preceding section, the Superintendent may cause a notice in writing under his hand to be served on the owner or person in occupation of the land or premises whereon, or adjoining which, such boundary-mark is situated, requiring him to maintain and keep in repair such boundary-mark till the survey has been completed.

Maintenance after temporary boundary-marks.

20. After the survey of any part of the town has been completed, the Superintendent shall deposit all maps, field-books, proceedings, awards and all other documents connected with the survey of such part in the Municipal Office of the Corporation of Calcutta.

All documents connected with the survey to be sent to the Municipal office.

Any person interested in the survey may, at any time within two months from the date of such deposit, which date shall be notified in the ¹ [Official Gazette], inspect such documents free of charge.

And, if during such period any objection to the survey be lodged with the Superintendent, such objection shall be decided by the Superintendent, or by such officer as the ³[State Government] may appoint in this behalf.

21. After all objections lodged under the last preceding section have been decided, the [State Government] shall, if it approves the survey, signify such approval by notification in the [^][Official Gazette].

Approval of the survey by the State Government to be notified.

22. No suit shall lie to set aside any demarcation of boundaries made under the provisions of this Act unless brought within one year from the date of the notification mentioned in the last preceding section.

No suit shall lie unless brought within one year.

23. The ¹[State Government] may lay down rules not being inconsistent with this Act to provide for the preparation of maps and for the collection and record of any information in respect of any land to be surveyed under this Act, and generally for the proper performance of all things to be done and for the regulation of all proceedings to be taken under this Act.

State Government may make rules under the Act.

(Sections 24-27.)

24. Every notice in and by this Act required to be served on any person

¹-See Foot-note 1 on page 538, ante.
³See Foot-note 1 on page 538, ante.

may be served:ô

[Ben. Act I of 1887.]

How notices
maybe
served,

- (a) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides or holds his office, or carries on his business, or by delivering the same to an agent or servant of such person, or to a male adult member of his family and by fixing a copy on some conspicuous part of the land or premises to which it relates; or
- (b) by sending a registered cover through the post office containing such notice directed to the said person at the place where he resides:

Provided that, after the publication of the notification referred to in section 21, no survey made under this Act shall be vitiated for any defect in the service of notice.

Penalty for
failure to
comply with
requisition in
notice.

25. Whoever fails to comply with a requisition contained in any notice duly served under section 5 or section 8 of this Act shall be liable to a fine not exceeding one hundred rupees.

Proceedings
none be
affected by
informality.

26. No proceedings under this Act shall be affected by reason of any informality, provided the directions of this Act be in substance and effect complied with; and no proceedings under this Act shall be affected by reason of the omission to serve any notice on an owner whose name is not registered as owner in the Calcutta Collectorate or in the registers of the Corporation of the town of Calcutta.

Power of
State
Government to
extend this Act
to the Suburbs.

27. The [State Government] may extend the whole or any of the provisions of this Act to the whole or any part of the Suburbs of Calcutta which may hereafter be amalgamated for municipal purposes with the town of Calcutta.

¹See foot-note 2 on page 538, *ante*.

