

# Bihar Special Survey and Settlement Act, 2011

BIHAR

India

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### Act 24 of 2011

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Bihar Special Survey and Settlement Act, 2011(Bihar Act 24 of 2011)Preamble. - (i) Whereas the preparation and maintenance of to-date record of rights is the basic plank on which revenue and land resource management and administration rest;(ii) Whereas, experience shows that revisional survey and settlement operations, following conventional methods, in some parts of the State, have been long drawn out, cumbersome and exorbitantly expensive;(iii) Whereas, revisional survey operations in Purnea, Katihar, Kishanganj and Araria were carried out from 1952 to 1986; in Muzaffarpur, Sitamarhi, Sheohar and Vaishali from 1959 to 1988; in Saharsa, Madhepura and Supaul from 1962 to 2002 and these operations are still on in Darbhanga, Madhubani and Samastipur since 1965; in Bhojpur, Buxar, Rohtas and Kaimur since 1959; in Gaya, Jahanabad, Arwal, Aurangabad and Nawada since 1965; Bhagalpur and Banka since 1965 and in Patna since 1986;(iv) Whereas, the very purpose of a revisional survey and settlement is defeated if the time span on which it is undertaken is as long as reflected in the foregoing;(v) Whereas, no revisional survey and settlement since cadastral survey could be carried out in 12 districts in Bihar, namely, Begusarai, Khagaria, Lakhisarai, Sheikhpura, Jamui and Munger in Munger Division; Saran, Siwan and Gopalganj in the Saran Division; East Champaran and West Champaran in the Tirhut Division and Nalanda in Patna Division;(vi) Whereas, Continuous Khatian (Register-1B), Khesra Register and Register-II (Tenants' Ledger) supposed to be maintained in the Anchal Offices in an up-to-date manner, have not been maintained as such, and consequently, transfers, successions, mutations, etc., taking place from time to time, have not been reflected therein;(vii) WHEREAS, computerization of land records as sponsored by the Government of India some years ago has not followed a uniform approach;(viii) WHEREAS, in the event of non-synchronisation of data put into the computer with to-date ground realities, there has been a gap between successive claims of title and a reflection of the same through land records;(ix) WHEREAS, modern technology is available to minimize time spent on survey part, while the settlement aspect may be judiciously squeezed without sacrificing quality, transparency and grievance redressal;(x) WHEREAS, land remaining the mainstay of development activities, current title, possession and classification of lands needs to be ascertained conclusively in order that land acquisition operations are not vitiated by unfounded assertions, fraud and fabrication and also that agricultural credit, subsidy, relief and insurance related activities are carried on smoothly.(xi) WHEREAS, digital maps prepared through modern

technology need be verified and compared with the maps prepared through conventional methods as well as a ground truthing of the same is necessary, the technically qualified Licensed Surveyors may be assigned with this task.(xii) WHEREAS, in the post - mapping stage, it will be necessary to prepare basis record of rights taking into account the up-to-date title, ownership and possession and other requisite details of land, and the aforesaid technically qualified persons may be assigned with this task on an on-going basis.(xiii) WHEREAS, an in-built computerized and digital system of the maintenance of the Record of Rights including maps in a sine-qua-non for all development processes and the aforesaid technically qualified persons may be assigned with this task on a regular basis.Be it enacted by the Legislature of the State of Bihar in the Sixty Second year of the Republic of India as follows-

## 1. Short title, extent and commencement.

(1)This Act may be called the Bihar Special Survey and Settlement Act, 2011.(2)It shall extend to the whole of the State of Bihar.(3)It shall come into force from such date which the Government may appoint by notification in the official gazette.Chapter-I Definitions

## 2. Definitions.

(1)In this Act, unless otherwise requires in the context, definitions provided in the Bihar Tenancy Act, 1885, the Bihar Survey and Settlement Manual, 1959 and the Bihar Tenants' Holdings (Maintenance of Records) Act, 1973 shall remain prevailing.(2)Special definitions. - In the Act, unless otherwise required in the context -(i)"Act" means The Bihar Special Survey & Settlement Act, 2011;(ii)"Collector" means the Collector of the district;(iii)"Draft Publication" means the publication of the draft of Record of Rights so as to enable the public to know about the entries made by the survey authorities. Anybody having grievances against the entries may file objections which shall be heard and be disposed off;(iv)"Government" means the Government of Bihar;(v)"Final Publication" means fair copying of khatians and their final publication in survey and settlement operations;(vi)"Jaanch" means final checking of records, made after the disposal of objections;(vii)"Khanapuri" means the filling up of khatian's columns like raiyat's name, the khesra, possession, etc. in the preliminary record-writing stage of survey and settlement operations;(viii)"Khesra" means the list showing of plots serially numbered according to the map showing occupants, area and classification plot by plot;(ix)"Khatian" means a record of raiyats' rights including plot number, area, quality and possession of land;(x)"Land Holder" means land holder as defined in the Bihar Tenancy Act, 1885;(xi)"Licensed Surveyor" means a person technically qualified to measure, draw sketch map/map according to the scale of plots and holding license from the Director, Land Records & Survey, Bihar to carry out work relating to survey and settlement and such other work as is assigned to him from time to time;(xii)"Prescribed" means prescribed by the Act and Rules made there under;(xiii)"Prescribed fee" means amount payable by raiyats for obtaining the services of the licensed surveyor;(xiv)"Remuneration" means amount payable by the Government or any other public body for taking the services of the licensed surveyor;(xv)" Kistwar" means the measurement and plotting of land according to cultivation;(xvi)"Muqabla" means comparison;(xvii)"Radif" means to arrange;(xviii)"Record of rights" means entries of the surveyed land along with their category, ownership, nature, area, etc.

After final publication it carries a statutory presumption of correctness;(xix)"Recess" ordinarily means the stage during which records are prepared for the stage next to the khatapuri stage;(xx)"Revisional Survey" means survey operations initiated and conducted on the basis of the blue print map of the cadastral survey in order to update the land records;(xxi)"Safai" means fair copying;(xxii)"Settlement" means survey operations conducted in a district or in an area in order to determine land revenue assessment;(xxiii)"State" means the State of Bihar;(xxiv)"Tarmim" means compliance of order of correction;(xxv)"Tartib" means arrangement of record; alphabetical arrangement of Khatian according to names of raiyats.(xxvi)[ "Settlement Officer" means the Settlement Officer of the district or any other Officer authorized by the Government to discharge the functions of the Settlement Officer of a district.] [Added by Bihar Act No. 7 of 2012, dated 24.5.2012.](xxvii)[ "Kanoongo" means an officer appointed as kanoongo by the State Government to discharge functions and responsibilities mentioned in the Act and Rules; [Added by Bihar Act No. 23 of 2017, dated 4.9.2017.](xxviii)"Assistant Settlement Officer" means an officer appointed as tile Assistant Settlement Officer by the State Government to discharge functions and responsibilities mentioned in the Act and Rules;(xxix)"Charge Officer" means an officer appointed as the Charge Officer by the State Government to discharge functions and responsibilities mentioned in the Act and Rules;(xxx)"Director, Land Records and Survey" means an officer appointed by the, State Government to represent the Directorate of Land Record and Survey, of the State government and to discharge functions and responsibility mentioned in the Act and Rules.]Chapter-II Special Survey and Settlement

### **3. Notification of intention in the official gazette.**

- The Government may, by a notification in the official gazette, express its intention to carry out special survey and settlement in a part or the whole of the State, in accordance with the provisions of this Act.

### **4. Re-organizing on-going survey operations.**

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

### **5. [ Self declaration by land holders. [Substituted by Bihar Act No. 23 of 2017, dated 4.9.2017.]**

(1)After notification under Section 3, the amin and kanoongo shall prepare a genealogical table of the land holders and yaddast register in respect of the area under their jurisdiction.(2)After notification under Section 3, a landholder may submit before the Assistant Settlement Officer in survey office or camp office, a self declaration in respect of land held by him in the prescribed manner. The self declaration shall be verified with the available records and genealogical table by the Settlement Office and a verification certificate shall be issued to him.]

## **6. Kistwar by modern technology.**

(1) Kistwar of a revenue village may be carried out by modern technology inclusive of base mapping, demarcation and ground truthing in accordance with the procedure laid down in this behalf. (2) Kistwar operations shall be duly publicised at the local level to ensure and facilitate active participation by the Panchayati Raj Institutions and people of the villages concerned.

## **7. Constitution of khanapuri parties and the preparation of the draft record of rights.**

(1) Khanapuri parties shall be constituted in the revenue villages concerned to update and prepare basic record of rights in collaboration with the agency responsible for kistwar operations and licensed surveyors. (2) [A khanapuri party shall be constituted consisting of the following:-(i) Assistant Settlement Officer; (ii) Kanoongo; (iii) Amin] (3) The Government may engage a private agency in the preparation of preliminary record of rights in whole or in part, including preparation of notices for the raiyats and their service to the raiyats concerned and inviting objections thereon. Objections to the notices shall be collected and compiled in the prescribed manner. (4) While preparing the basic record of rights, the khanapuri party shall take into account to-date ground realities, changes, transfers, sub-divisions, partitions, hereditary devolution, exchanges and the like in matters of determining right, title and ownership of the raiyati holdings. (5) The khanapuri party shall identify and demarcate public lands, Government lands, lands treated as common property resources and the like and record the same as such in the Record of Rights. (5A) [Recess. - The work of checking of the maps and record-of-rights to be prepared in view of the provision of sub-sections (3), (4) and (5) shall be completed during the recess. The recess work shall be done in two sections, namely, (1) the drawing and area section, and (2) the khesra section.] [Inserted by Bihar Act No. 23 of 2017, dated 4.9.2017.] (6) Claims and objections, if any, shall be disposed of in the prescribed manner by an employee/officer not below the rank of Kanoongo/Circle Inspector/ Assistant Consolidation Officer. Provided claims and objections with regard to Public Land shall be disposed of by an officer not below the rank of Assistant Settlement Officer/ Circle officer/ Consolidation Officer. The land records prepared in the aforesaid manner shall be called the Draft Record of Rights.

## **8. Publication of the draft khanapuri record of rights.**

- The draft record of rights, including maps, prepared during kistwar and khanapuri, shall be published in the concerning revenue village in accordance with the procedure laid down in this behalf.

## **9. Inviting objections to the khanapuri record of rights.**

- Claims and objections shall be invited and compiled at the end of the khanapuri operations in the revenue village concerned and shall be heard and disposed of in the prescribed manner by an officer not below the rank of Assistant Settlement Officer/ Circle Officer/ Consolidation Officer. Provided

cases in which claims and objections have been decided under section-7 of this Act by an officer of the rank of Assistant Settlement Officer/ Circle Officer/ Consolidation Officer, shall not be heard and disposed of by the same Officer.

## **10. Work during recess.**

- After the disposal of objections and appeals in accordance with Section 7 and 9 of the Act respectively, Jaanch, Safai, Muqabla, Radif, Tartib, Tarmim, etc. shall be carried out in recess, in the prescribed manner.

## **11. Final publication of the record of rights.**

(1)The record of rights of a revenue village shall be published finally under the hand and seal of the [Settlement Officer] [Substituted 'Collector' by Bihar Act No. 7 of 2012, dated 24.5.2012.] of the District, in prescribed manner, after the conclusion of work during recess under Section 10 of the Act.(2)Claims and objections with regard to the record of rights may be filed within 3 months of its final publication and such claims and objections shall be heard and disposed of in the prescribed manner by an officer not below the rank of Land Reforms Deputy Collector.(3)A copy of the finally published record of rights shall be sent to the concerning Anchal Office for follow up action in day-to-day revenue administration.

## **12. Presumption of final publication and correctness of record of rights.**

(1)The record of rights finally prepared and published under this Act, shall be presumed to have been finally published.(2)The State Government may, by notification, declare, with regard to any specified area, that a record of rights has been finally published for every village included in such area and such notification shall be conclusive evidence of such publication.(3)Every entry in a record of rights so published shall be evidence of the matter referred to in such entry and shall be presumed to be correct unless it is proved by evidence to be incorrect.

## **13. Consolidation to follow special survey & settlement.**

(1)Consolidation operations, as provided in The Bihar Consolidation of Holdings & Prevention of Fragmentation Act, 1956 shall be made in the revenue villages covered by special survey and settlement under this Act. The workforce engaged in special survey and settlement may be engaged, as per need, in Consolidation operations.(2)Voluntary consolidation/exchange of land shall be encouraged and due public information base shall be created for the same.

## **14. Maintenance of records in digital form.**

- Copy of created records may be maintained in digital form in the prescribed manner.[15 to 19. [Deleted by Bihar Act No. 23 of 2017, dated 4.9.2017.]\*\*\*] [Substituted by Bihar Act No. 23 of 2017, dated 4.9.2017.]

**Chapter-III Licensed Surveyor**  
**15. Granting of license and enrolment.-** (1) The Director of Land Records & Survey, Bihar shall invite applications from persons desirous of being enrolled as licensed surveyors as per Rules laid down in this behalf. (2) The applicant desirous for the grant of license should possess technical qualifications and experience prescribed in the Rules laid down in this behalf. (3) The Director of Land Records & Survey, Bihar shall enroll the qualifying candidates and send the list to the District Collectors[Settlement Officer] [Inserted by Bihar Act No. 7 of 2012, dated 24.5.2012.] for use as and when and where required in accordance with executive instructions to be issued in this regard.  
**16. Duties of the licensed surveyors.-** (i) to prepare sketch map/ map to scale as applied for by the raiyats; (ii) to prepare map to scale as required by a Government authority or Public Body; (iii) to prepare map to scale as required by the requisitioning body in the land acquisition proceedings; (iv) to update maps prepared in course of cadastral and revisional surveys; (v) to verify digital maps prepared through modern technology and carry out ground truthing exercises; (vi) to prepare record of rights in the post-mapping stage, during field survey and settlement operations as well as facilitate updating of land records maintained in the revenue offices; (vii) to facilitate inter-connectivity among revenue offices; (viii) to prepare maps and record of rights during Consolidation Proceedings; (ix) any other incidental liability conferred by the Director of Land Record and Survey, Bihar/Collector of any District[/Settlement Officer of any District] [Inserted by Bihar Act No. 7 of 2012, dated 24.5.2012.].  
**17. Distribution of work among licensed surveyors.-** The Collector[or the Settlement Officer] [Inserted by Bihar Act No. 7 of 2012, dated 24.5.2012.] or any other revenue officer in a District shall distribute work among licensed surveyors, whose rolls are available in the revenue office concerned.  
**18. Fees & Remuneration.-** (1) The authority nominated by the State Government shall be competent to decide the fee/remuneration for different works/services to be rendered by the Licensed Surveyors. (2) In case the work as provided in Section 5 pertains to rendering services to a private individual, the individual shall, along with an application form, deposit such amount as is prescribed, in the revenue office concerned. The revenue officer shall deduct a part of the fees as incidental costs for supplying copies of the existing record of rights to the licensed surveyor in the prescribed manner. The rest of the amount shall be payable to the licensed surveyor to whom the work is allotted, as fees, on satisfactory completion of the work. (3) The sketch map/ map to scale, as prepared by the licensed surveyor, shall be verified by the officer/staff of the Anchal concerned and findings shall be recorded in writing. In case the work is found unsatisfactory, the matter shall be remitted back to the licensed surveyor concerned for carrying out the exercise afresh. (4) In case, a work has been assigned to the licensed surveyor by a Government department, Requisitioning Body relating to land acquisition or any public body, institution or authority, the licensed surveyor shall be paid remuneration in the prescribed manner. (5) In case, the licensed surveyor is assigned work pertaining to the preparation of maps/ record of rights during survey, settlement and consolidation operations or updating of records of rights and the like, he shall be paid remuneration in the prescribed manner.  
**19. Cancellation of license.-** In case of dereliction of duties, unsatisfactory activities or any other proven misconduct, the Director Land Records and Survey may either suo motu or on the recommendation of the Collector[Settlement Officer] [Inserted by Bihar Act No. 7 of 2012, dated 24.5.2012.] of the District to this effect may cancel the license of the licensed surveyor.

#### Chapter-IV Miscellaneous

## 20. Act to override other laws.

(1)The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, of any customs or usages having the force of law or contract or judgment, decree or order of the court or any other authority.(2)The procedure for survey and settlement as laid down in the Bihar Tenancy Act,1885, The Bihar Survey and Settlement Manual, 1959 Technical Rules and The Bihar Tenants' Holdings (Maintenance of Records) Act, 1973 shall be deemed to be superseded, modified or supplemented, as the case may be, by the provisions of this Act, Rules and Manual made hereunder and guidelines issued from time to time to give effect to the provisions of this Act.Explanation. - Earlier Survey & Settlement proceedings carried out under the appropriate law for the time being in force, shall not be construed to be illegal, to any extent, after coming into force of this Act.[Explanation. -(i)Any proceedings instituted before Revenue officer under section-106 of Bihar Tenancy Act, 1885 after final publication of the record of right and still pending for disposal and decision of the disputes shall be heard and decided within the period of 12 (twelve) months from the date of coming into force of this amendment Act in accordance with the provisions of Bihar Tenancy Act, 1885 as if the said provisions have not been superseded under this Act.(ii)Any revision, which is still pending for order or decision under section 108 of Bihar Tenancy Act, 1885, shall be heard and decided within a period of 12 (twelve) months from the date of coming into force of this amendment Act in accordance with the provisions of Bihar Tenancy Act, 1885 as if the said provisions have not been superseded under this Act.(iii)If any application is still pending under Section 108A of Bihar Tenancy Act for correction of mistake, or material error in the Record of Right, correction may be made after giving reasonable opportunity to the parties concerned to appear and heard in the matter. The application shall be disposed of within 120 working days from the date of coming into force of this amendment in accordance with the provisions of Bihar Tenancy Act, 1885 as if such provisions have not been superseded under this Act.(iv)However, no fresh proceedings shall be instituted under Section 106 or fresh revision under Section 108 and no fresh application under Section 108A of Bihar Tenancy Act, 1885 shall be entertained by revenue officer.](3)[ After Publication of draft of the Record of Rights, Assistant Settlement officer shall prepare settlement rent roll for every Raiyat of the concerned Mauza on the basis of table of rates determined by the State Government.(4)Publication and amendment of settlement rent roll-(i)When settlement rent-roll for the concerned Mauza has been prepared, the Assistant Settlement officer shall cause a draft of it to be published in the prescribed manner for a prescribed period, to receive objections regarding any omission or mistake made to any entry.(ii)All such objections received during the period of publication, shall be disposed of by the Assistant Settlement Officer after reasonable notice given to parties concerned to appear and to be heard.(5)Confirmation of settlement rent-roll and incorporation in Record of rights. - The Assistant Settlement officer shall submit settlement rent-roll thus prepared to the Settlement Officer through the Charge Officer for sanctioning the settlement rent-roll. The Charge Officer shall examine the settlement rent roll and if it is found correct in his opinion he shall submit it to the Settlement Officer for confirmation and sanction.(6)The Settlement Officer may sanction settlement rent-roll with or without correction or may return it to the Assistant Settlement officer for reconsideration.Provided that no entry shall be amended until reasonable notice has been given to parties concerned to appear and be heard in the matter.(7)After sanction by the settlement Officer the Assistant Settlement officer shall finally frame the settlement rent-roll

and shall incorporate it with Record of rights and publish.] [Added by Bihar Act No. 23 of 2017, dated 4.9.2017.]

## **21. State to be a necessary party in certain cases.**

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

## **22. Summary disposal of proceedings.**

- All proceedings under this Act shall be disposed off summarily in accordance with the provisions of the Act and Rules framed hereunder.

## **23. Bar of Jurisdiction until final publication.**

- Save as otherwise expressly provided in this Act, no Court, except the Patna High Court and the Supreme Court of India, shall entertain any suit, or other proceeding to set aside, or modify or question the validity of an order or decision passed or taken by an authority under this Act or any rules made thereunder or in respect of any matter falling within the scope of this Act, until and unless the record of rights is finally published under Section-12 of this Act.

## **24. Power to give directions.**

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

## **25. Power to frame technical guidelines.**

- The Director, Land Records & Survey, Bihar shall have the power to frame technical guidelines to carry out all or any of the purposes of this Act.

## **26. Protection of action taken in good faith.**

- No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done.

## **27. Power to remove difficulties.**

- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order in the Bihar Gazette, make such provisions not inconsistent with the purposes or provisions of this Act as appear to be necessary or expedient to remove the difficulty.



## **28. Power of the Government to make rules.**

(1)The Government may, by notification in the official gazette, make rules for carrying out all or any of the purposes of the Act.(2)In particular and without prejudice to the generality of the foregoing powers the rules may provide for all or any of the following matters, namely:-(i)the manner in which summary disposal of proceedings shall be carried out.(ii)the manner in which reports and returns are to be submitted by the competent authority;(iii)the manner in which applications shall be heard by the competent authority;(iv)the manner in which any amount shall be deposited in the Government account;(v)the powers of the Commission appointed for local enquiry;(vi)the maintenance of records and registers and display of notices;(vii)the manner in which application or complaint shall be filed;(viii)any other matter which is required to be, or may be prescribed.[Added by Bihar Act No. 23 of 2017, dated 4.9.2017.]