

Twelfth Kerala Legislative Assembly

Bill No. 129

**THE KERALA SURVEY AND BOUNDARIES
(AMENDMENT) BILL, 2007**

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further to amend the Kerala Survey and Boundaries Act, 1961.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Survey and Boundaries Act, 1961 for the purposes hereinafter appearing;

BE it enacted in the Fifty-eighth Year of the Republic of India, as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Kerala Survey and Boundaries (Amendment) Act, 2007.

(2) Sections 2 and 3 of this Act shall be deemed to have come into force on the 30th day of July, 2007 and the remaining sections shall be deemed to have come into force on the 6th day of January, 2006.

2. *Amendment of section 8.*—In section 8 of the Kerala Survey and Boundaries Act, 1961 (37 of 1961) (hereinafter referred to as the principal Act), the following proviso shall be inserted, namely:—

“Provided that for the purpose of speedy survey of vast area of land, the Government may by notification in the official Gazette authorise the concerned survey officer to conduct the survey through aerial survey, utilizing the services of such expert agencies, as may be specified by the Government in the said notification.” .

3. *Amendment of section 12.*— In sub-section (1) of section 12 of the principal Act, for the words “three months” occurring in both the places, the words “one month” shall be substituted.

4. *Amendment of section 13.*— In section 13 of the principal Act, for the words “is modified by a decree of a civil court”, the words, figures and letter “is modified by an order of the Collector under section 13A or is modified by a decree of a civil court” shall be substituted.

5. *Insertion of new section 13A.*— After section 13 of the principal Act, the following section shall be inserted, namely:—

“13A. *Power of revision by the Collector.*—(1) Notwithstanding anything contained in section 13, the Collector may either *suo motu* or on an application from any person, examine the record in respect of the determination of any boundary which has been completed and the fact of such completion has been notified under section 13, to satisfy himself as to the legality of the determination of such boundary, and if, in any case, the Collector is satisfied that the determination of such boundary should be modified or revised, on the ground of any discrepancy, inaccuracy, defect or mistake of any kind crept in such determination, he may pass orders accordingly:

Provided that the Collector shall not pass any order affecting any party unless such party has had an opportunity of making a representation.

(2) Where determination of any boundary is modified or revised by an order under sub-section (1), the Survey Officer shall publish the fact of such modification or revision, as the case may be, in the Gazette and also in the notice board of the Village Office to which the survey relates.”.

6. *Amendment of section 14.*—In section 14 of the principal Act, in sub-section (1),—

(1) after the words and figures “or section 11”, the words, brackets, figures and letter “or aggrieved by an order passed by the Collector under sub-section (1) of section 13A” shall be inserted;

(2) after the words and figures “under section 13”, the words, brackets, figures and letter “or sub-section (2) of section 13A, as the case may be,” shall be inserted.

7. *Repeal and Saving.*—(1) The Kerala Survey and Boundaries (Amendment) Ordinance, 2007 (53 of 2007) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

As per section 13 of the Kerala Survey and Boundaries Act, 1961 (Act 37 of 1961) when the survey of any land or boundary has been completed and notified in accordance with the provisions of the said Act, then unless the survey thus notified is modified by a decree of a civil court, it shall be conclusive proof that the survey and boundary so determined and recorded have been correctly determined and recorded. The land owners are put into genuine difficulties as they have to approach the civil courts to rectify the defects on account of the mistakes crept in the resurvey records which have been notified under section 13 of the Kerala Survey and Boundaries Act, 1961. Government, therefore, considered it necessary to invest the District Collectors with power of revision on the ground of any discrepancy, inaccuracy, defect or mistake of any kind crept in such determination.

2. A Bill to amend the Kerala Survey and Boundaries Act, 1961 for the above purpose was published as Bill No. 7 of the 11th Kerala Legislative Assembly but the same could not be introduced in the Legislative Assembly due to lack of time.

3. As the provisions of the above said Bill had to be given effect to immediately the Kerala Survey and Boundaries (Amendment) Ordinance, 2006 (6 of 2006) was promulgated by the Governor on the 6th day of January, 2006 and the same was published in the Kerala Gazette Extraordinary No.36 dated 6th January, 2006.

4. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its sessions which commenced on the 3rd day of February, 2006 and ended on the 21st day of February, 2006 and which commenced on the 14th day of March, 2006 and ended on the 15th day of March, 2006. Therefore the Kerala Survey and Boundaries (Amendment) Ordinance, 2006 (26 of 2006) was promulgated by the Governor on the 17th day of March, 2006 and the same was published in the Kerala Gazette Extraordinary No. 602 dated 17th March, 2006.

5. A Bill to replace Ordinance No. 26 of 2006 was published as Bill No. 2 of Twelfth Kerala Legislative Assembly, but the same could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 24th day of May, 2006 and ended on the 30th day of June, 2006. Therefore, the Kerala Survey and Boundaries (Amendment) Ordinance, 2006 (39 of 2006) was promulgated by the Governor on the 5th day of July, 2006 and was published in the Kerala Gazette Extraordinary No. 1133 dated 5th July, 2006.

6. A Bill to replace Ordinance No. 39 of 2006 could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of September, 2006 and ended on the 26th day of October, 2006. Therefore, the Kerala Survey and Boundaries (Amendment) Ordinance, 2006 (49 of 2006) was promulgated by the Governor on the 30th day of October, 2006 and the same was published in the Kerala Gazette Extraordinary No. 1713 dated 30th October, 2006.

7. A Bill to replace the Ordinance No. 49 of 2006 could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 27th day of December, 2006 and ended on the 29th December, 2006. Therefore, the Kerala Survey and Boundaries (Amendment) Ordinance, 2007 (12 of 2007) was promulgated by the Governor on the 4th day of February, 2007 and the same was published in the Kerala Gazette Extraordinary No. 212 dated 5th February, 2007.

8. A Bill to replace the Ordinance No. 12 of 2007 could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 2007 and ended on the 29th day of March, 2007. Therefore, the Kerala Survey and Boundaries (Amendment) Ordinance, 2007 (37 of 2007) was promulgated by the Governor on the 30th day of March, 2007 and the same was published in the Kerala Gazette Extraordinary No. 642 dated 2nd April, 2007.

9. A Bill to replace the Ordinance No. 37 of 2007 could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 19th day of June, 2007 and ended on the 26th day of July, 2007. Therefore, the Kerala Survey and Boundaries (Amendment) Ordinance, 2007 (53 of 2007) was promulgated by the Governor on the 30th day of July, 2007 and the same was published in the Kerala Gazette Extraordinary No. 1412 dated 30th July, 2007. Necessary provisions were also included in the said Ordinance for giving legal validity to aerial survey and for reducing the time limit as one month for filing the appeal under section 11 of the Act.

10. The Bill seeks to replace the said Ordinance by an Act of the State Legislature.

FINANCIAL MEMORANDUM

As per clause 2 of the Bill, it is proposed to amend section 8 of the Act enabling the Survey Officer to conduct aerial survey, utilising the services of expert agencies as may be specified by the Government in the said Notification. The exact amount required for the purpose could not be anticipated at this time. However, when the Bill is enacted and brought into operation, it would involve expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-section (1) of section 13A proposed to be inserted by clause 5 of the Bill seeks to empower the Collector to revise the legality of the determination of boundary notified under section 13 of the Act either *suo motu*, or by an application from any person.

2. Sub-section (2) of the said section proposed to be inserted by clause 3 of the Bill seeks to empower the Survey Officer to publish the fact of modification or revision under sub-clause (1), in the Gazette and also in the notice board of the village office to which the surveys relates.

3. The above are matters of an administrative or routine nature or matters of detail. The delegation of Legislative power is, therefore, of a normal character.

K. P. RAJENDRAN

EXTRACT FROM THE KERALA SURVEY AND BOUNDARIES
ACT, 1961 (ACT 37 OF 1961)

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8. *Survey to be carried out in the prescribed manner.*—Every Survey Officer shall be bound to carry out the survey in the manner prescribed.

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12. *Period within which appeal may be preferred.*—(1) An appeal under Section 11 shall be preferred within three months from the date of service of notice under Section 6, Section 9, Section 10, provided that the taken to obtain a copy of the decision and of the map shall not be included in the period of three months allowed for the appeal.

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13. *Completion of demarcation to be notified.*—When the survey of any land or boundary which has been notified under section 4 or ordered under section 5 has been completed in accordance with the orders passed under section 9, section 10 or section 11, the Survey Officer shall notify the fact in the Gazette, and a copy of such notification shall be pasted in village office, in any of the villages to which the survey relates. Unless the survey so notified is modified by a decree of a civil court under the provisions of section 14, the record of the survey shall be conclusive proof that the boundaries determined and recorded therein have been correctly determined and recorded.

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14. *Right to institute a suit in respect of boundary of the property surveyed.*—(1) Any person deeming himself aggrieved by the determination of any boundary under section 9, section 10 or section 11 may, subject to the provisions of the law of limitation in force for the time being, institute a suit within one year from the date of the notification under section 13 to set aside or modify the said determination and the survey shall, if necessary, be altered in accordance with the final decree in the suit and the alteration, if any, shall be noted in the records.

(2) In any suit under sub-section (1), the plaintiff shall join as parties to the suit all persons whom he has reason to believe to be interested in the boundary which is subject to the suit.

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