VOLUME 14

# Ex-State & Estate Settlements 1938 – 1963

*Ganjam Ex-Estate Major Settlement, 1938–62 · Kalahandi Ex-State Khalsa Settlement, 1946–56 · Kalahandi Ex-Zamindaries Settlement, 1963 · Kalahandi District Gazetteer*

14

COMPILED BY

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# About this volume

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# FINAL REPORT
ON
# THE MAJOR SETTLEMENT OPERATION
IN
# GANJAM EX-ESTATE AREAS
# 1938—1962

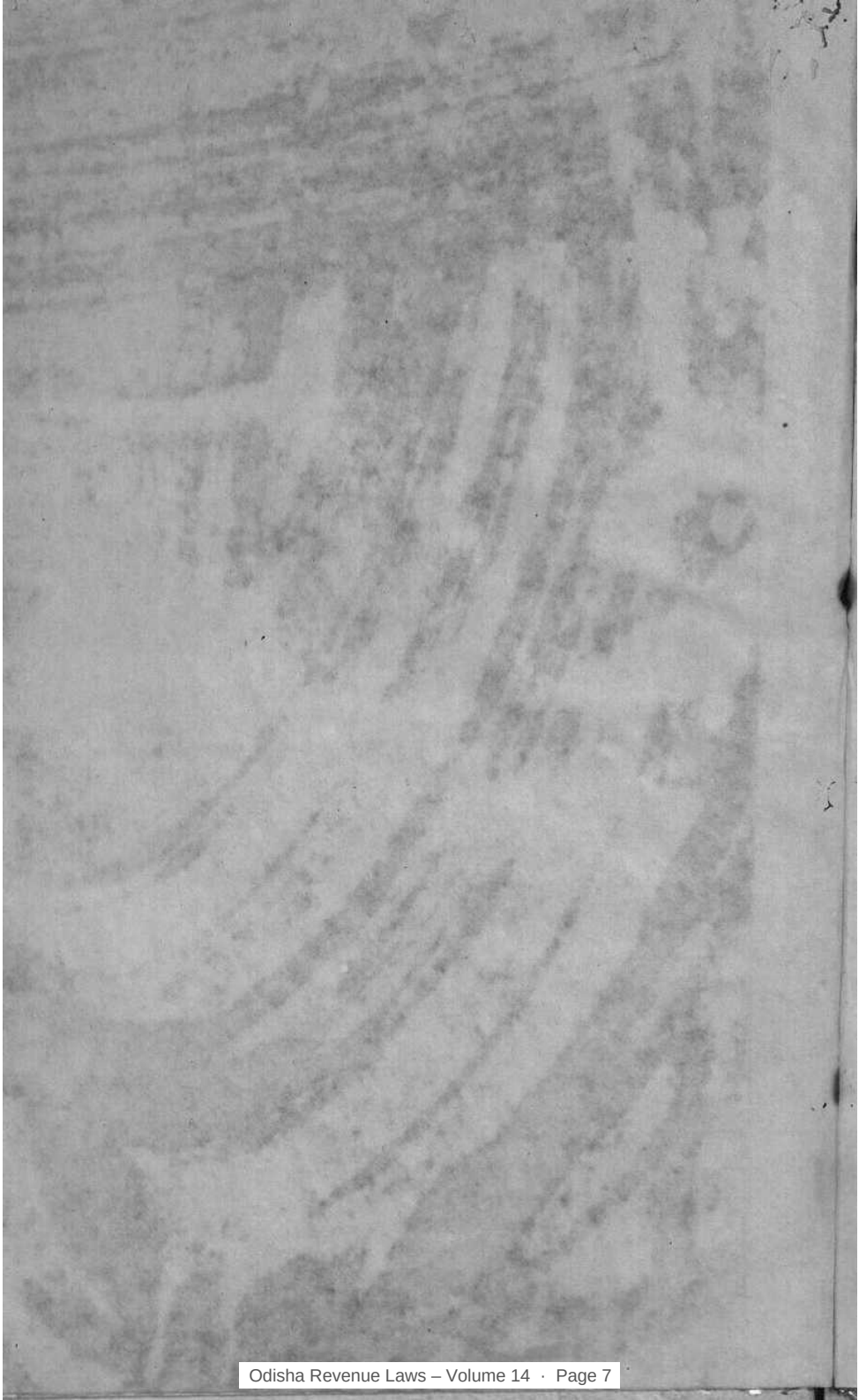
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BOARD OF REVENUE, ORISSA







# FINAL REPORT
ON
# THE MAJOR SETTLEMENT OPERATION
IN
# GANJAM EX-ESTATE AREAS
## 1938—1962




*By*
SHRI N. C. BEHURIA, O.A.S. (1)
*Settlement Officer*

No. 58514—S-132/63-R.

# GOVERNMENT OF ORISSA

## REVENUE AND EXCISE DEPARTMENTS

## RESOLUTION

*Bhubaneswar, the 10th October 1963*

READ—The final report on the Major Settlement Operation in Zamindaries and Inams of Ganjam district with forwarding letter No. 4291—XIV-12/63-L.R.S., dated the 22nd April 1963, of the Director of Land Records and Surveys, Orissa.

1. *Previous History*—Till the 1st April 1936 the date on which the Province of Orissa was created, Ganjam was the northerpmost district of the Madras Presidency. A large part of the district had been permanently settled under Regulation XXV of 1802. Even though it was the very basis of permanent settlement that it would in no way affect the rights of ryots and others interested in land, yet section 2 of the Permanent Settlement Regulation could be interpreted to mean that the ryot was at the mercy of the Zamindar. The Madras Permanent Settlement (Interpretation) Regulation 4 of 1822 had therefore, to be passed. It declared that the Permanent Settlement Regulation was not intended to affect the rights of anybody else. It also prescribed the procedure for recovery of rent from tenants. There were subsequent Regulations for regulating the relationship between the Zamindar and the tenant and ultimately the Act VIII of 1865 defining a number of points in the landlord-tenant relationship was passed. But the provision of this Act relating to exchange of Pattas and Muchilkas had a ruinous effect on the rights of ryots. The Patta, which was intended to be a mere memorandum of the extent under cultivation in the year and of the particular crops harvested was interpreted by the High Court in 1871 to be a lease for a year. On this interpretation, the High Court ruled that by the acceptance of yearly Patta, the presumption would be that the Pattadar was a yearly tenant and no more. This ruling had far reaching consequences. The Zamindars managed to procure from their ryots Pattas in which a clause was inserted to the effect that the Zamindar was at liberty to lease out the land to anybody at his pleasure. The tenant faced a very difficult situation because of this and in order to prevent eviction, he had to pay a very high rent. Even though the legal position was subsequently corrected and a self-contained agrarian code covering almost all aspects of the landlord-tenant relationship was enacted in 1908 (Madras Estates Land Act, 1908) yet the demands for high rent continued and such rents were considered as nothing unusual. After the creation of the Province of Orissa Government considered that the ryots in Ganjam, who had been paying very high rents, were entitled to the benefits of a fair and equitable cash rent. Accordingly, in 1938 Government decided to conduct a survey-record-of-rights and settlement operation in all the Zamindaries of Ganjam district. The decision to include Inams which were estates within the meaning of the Madras Estates Land Act, 1908, was taken at a subsequent stage.

2. *History of the operation*—The operation had a chequered career. Due to outbreak of the Second World War it was suspended in the year 1942. It was resumed in the year 1947 and continued till 1954 when it had to be suddenly suspended on account of orders passed by the High Court in a writ case declaring the operation to be illegal. The operations were resumed after passing of the Ganjam and Koraput Survey and Settlement (Validation) Act (Act VII of 1956). In view of these unforeseen difficulties the operation which was originally programmed to be completed in the year 1944 at an estimated cost of Rs. 6·54 lakhs dragged on till the year 1962 thereby entailing heavy expenditure to the tune of Rs. 25,96,009·88 nP.

3. *Law and its working*—The Madras Survey and Boundaries Act, 1923 and the Madras Estates Land Act, 1908, governed survey, preparation of record-of-rights and settlement of rent. The Madras Estates Land Act did not contain any specific provision with regard to tenants of the ryots as a result of which such tenants could not be recorded in the record-of-rights. Similarly many intermediary interests could not be recorded as the Madras Estates Land Act did not define their rights. Now that the intermediary interests have been abolished or will be abolished in the near future, the omission to record them would not create much difficulty. But the omission to record the tenants of ryots who have been figuring more and more prominently for protection under various reforms measures would ultimately affect the quick implementation of these measures.

4. *Rent Settlement*—The rents realised in the area of operation were very high in comparison with the rents paid by the ryots in the neighbouring ryotwari areas. In the year 1947, the Madras Estates Land Act was amended by Orissa Act XIX of 1947 authorising the reduction of rent in Zamindary areas. Keeping this amended law in view, the rent settlement was conducted. The average rate of rent in these areas have not generally exceeded the existing rates of rent in the neighbouring ryotwari areas by more than 25 per cent. While fixing the rent of ryots of Inam villages, the rents already settled in the neighbouring Zamindary villages or ryotwari villages, as the case may be, were generally taken as the basis though quality of the soil, situation of the land, irrigation facilities, etc., are considered relevant for fixation of rent for different classes of land.

5. *Recovery of cost*—In ryotwari tracts of Ganjam, Government used to bear the entire cost fo survey and settlement operations. The Zamindars and Inams were, however, governed by the Madras Estates Land Act, Section 180 of which provides that expenses of survey, record-of-rights and rent settlement or any part thereof as may be directed by the Government, have to be defrayed by the land-holders and ryots. On the authority of this provision, Government had ordered the recovery of survey and settlement cost from ryots and land-holders even though the operations were taken up *suo motu* by Government. But in 1962, Government decided that the demand for survey and Settlement charges from the ex-proprietors and ryots should be waived and such cost as has already been realised from them should be refunded.

6. *Acknowledgment*—Government fully endorse the commendation of Board of Revenue in favour of Shri N. C. Behuria, the Settlement Officer, who has prepared this report in a clear and concise manner. Government also agree with the Board of Revenue that the Settlement Operation in Ganjam owes much to the late S. C. Benerjee, who organised the operation in its inital stages with untiring zeal and industry.

ORDER—Ordered that the Resolution be published in the *Orissa Gazette*

By order of the Governor
B. K. MISHRA
*Secretary to Government*

## BOARD OF REVENUE, ORISSA, CUTTACK

No. 4291-L.R.S.

*Dated the 22nd April 1963*

FROM

SHRI B. DAS, I.A.S., DIRECTOR OF LAND RECORDS AND SURVEYS, ORISSA, CUTTACK

TO

THE SECRETARY TO GOVERNMENT OF ORISSA, REVENUE DEPARTMENT BHUBANESWAR.

SIR,

I submit herewith the Final Report on the Major Settlement operation in the ex-Estate areas of Ganjam district by Shri Nrusinha Charan Behuria, Settlement Officer, Ganjam-Koraput Major Settlement. Though the Survey and Settlement operations were carried on in some areas of the district in the past, no Final Report is available on these operations. This report is the first of its kind so far as the district of Ganjam is concerned.

2. The operations covered all the Zamindaries except Parlakimedi and all Inam villages in the district of Ganjam, which came within the definition of an 'estate' under the Madras Estates Land Act and did not cover the ryotwari and agency portions of the district. Settlement operations are now in progress in the Zamindary villages of Parlakimedi and in the ryotwari areas of the district. It has also been programmed to extend the operations to the ageney tract of the district. Operations in these areas will form the subject-matter of a separate Final Report.

3. Prior to the formation of Orissa in 1936, Survery and Settlement Operations in some villages of different estates had been undertaken at the instance of the concerned Zamindars and ryots adopting the methods prevalent in the Madras Presidency, which were very costly and time-taking. Being isolated attempts made at different times they were not governed by any uniform policy or procedure. Different methods and procedure of survey and settlement were followed in different estates at different times as described in Chapters II, IV and VI of the Final Report.

In 1936 when the district of Ganjam was transferred to Orissa with the formation of a new province, a minor settlement operation under the Collector, Ganjam was in progress in some of the zamindaries. Mr. J. R. Dain, I.C.S., the then Revenue Commissioner, Orissa, was directed by Government of Orissa to submit a scheme of survey and settlement operation for the Zamindary areas. After studying the local problems in detail he was of the opinion that the entire Zamindary areas in the district should be brought under survey, record-of-rights and rent settlement operation under the Bihar and Orissa pattern as it was simpler, less costly and less time-taking. The suggestion of the Revenue Commissioner was considered by the Council of Ministers in 1938 and the Council decided that preparation of record-of-rights and settlement of rent should be ordered *suo motu* by Government in the Zamindary areas of the district. Accordingly, the major settlement operation was started in the year 1938 and the original programme covered 1,604 villages in the Zamindary areas including 27 Major Darmila Inams within these areas. According to this programme the operations were to be completed by the end of 1944 and the cost was estimated at Rs. 6·50 lakhs. Due to the outbreak of the Second World War the settlement operation was suspended in 1942 and consequently the programme could not the adher to. After termination of the War the operations were resumed in the year 1947. The programme was also revised to include presettlement whole Inam villages which became estates as a result of an amendement to the Madras Estates Land Act by Orissa Act XVII of 1947. The revised programme included altogether 2.115 villages—1,577 Zamindary and 538 Inam villages. This programme of work continued amidst various difficulties till 1954, when the progress of the operation received a further set-back due to the judgment of the Orissa High Court in the Badagoda writ case, declaring settlement operation in Ganjam illegal. After passing of the Ganjam-Koraput Survey and Settlement Validation Act to validate the proceedings declared illegal, the operations were again resumed in the year 1956 and amongst vicissitude of fortune they have now come to an end except in 146 villages for reasons of litigation and various other reasons as explained in Appendix I of the Final Report.

4. Chapter I gives a brief history of the district and the administrative set up from the time of early European conquest down to the present days. It also gives the back ground history of the three systems of revenue administration, namely, zamindary, ryotwari and agency, prevailing in the district and incidentally describes the incidence of tenure in each system—particularly the ryotwari system and goes on to describe the circumstances leading to the initation of the Major Settlement operation in the district. This chapter will be helpful for a proper appreciation of the systems of revenue administration now prevailing as it gives a clear picture as to how and in what circumstances a particular system was evolved.

5. Chapter II deals with the legal provisions regarding survey before the commencement of the Major Settlement operation and the changes in law and procedure that were introduced during the operation. This chapter is particularly thelpful in appreciating the difficulties met by the officers in introducing the new method of survey. As has been mentioned, three types of villages were to be met with—one where no survey was done, the second where the Madras Survey Party had prepared maps and survey land registers under the provisions of the Madras Survey and Boundaries Act and the last where final publication and republication had been done besides the survey. The first category of villages did not present much difficulty as the Bighar and Orissa system could be applied with necessary modification after amending the statutory rules under the Madras Survey and Boundaries Act. Even then the outcome of this cannot be said to be very satisfactory. The Madras Survey and Boundaries Act provided an independent survey operation and finality of survey without reference to the record-of-rights and rent settlement operations. Therefore, subdivisions created during subsequent stages could not be shown in the village maps and consequently separate supplemental sheets had to be prepared in respect of the subdivided plots.

only. Thus the map does not give a final picture without reference to the supplemental sheets. The second category of villages, called revision survey villages in the Final Report also presented similar difficulties. In the third category of villages survey had been done either under the Field Measurement Book system or under the Khallikote and Athagada system by the Madras Government. In thse villages only rent settlement was doae in the major settlement operation after making the records and maps up to date by camp Bujharat during rent enquiry stage. The changes in the fields could be shown only in the Field Measurement Book or in the village maps as the case may be, but owing to the difficulties in plotting the new subdivisions in the old village maps which had become torn and brittle, the maps could not be reproduced and have been left as such. In this chapter the Settlement Officer has endeavoured to bring out the difference between the system of survey prevalent in Madras and that in Bihar and Orissa. The main difference is that under the Madras system a survey field is taken as the unit of survey whereas under the Bihar and Orissa system a village is taken as the unit of survey. Under the Madras system, the survey proceeds from the part to the whole, whereas under the Bihar and Orissa system it proceeds from the whole to part. Again the surfvey field is not the revenue field and may consists of more than one revenue fields or plots. Under the Madras system the boundary of a survey field is taken as final and subsequent changes in the field does not allow for correction of the boundary either in course of maintenance of records or during the subsequent survey, whereas under the Bihar and Orissa system plot boundaries can be corrected as per the state of things on the spot at any time. Under the Bihar and Orissa system most of the work is done in the field whereas under the Madras system most of the work, is done at headquarters after collecting data on the field. The most important difference is that under the Bihar and Orissa system a few stones at village trijunction points are only embedded, whereas under the Madras system a large number of stones are embedded at bends and corners of survey fields. In order to reduce the cost on this account a compromise was effected during the major settlement operation to embed stones at village trijunctions and at starting and closing points of quadrilaterals only. The changes introduced were not, however, appreciated by the public in the beginning of the operations. They are, by now, accustomed to the change.

6. In Chapter III the Settlement Officer has exhaustively dealt with the difference between the provisions of the Orissa Tenancy Act and the Madras Estates Land Act in matters regarding tenancy and survey and settlement procedures. He has also shown the impact of other legislative measures that were introduced during the course of the settlement operation in respect of the records prepared during the settlement operation. In course of the operation several amendments to the Madras Estates Land Act and the rules thereunder were carried out from time to time for smooth conduct of the settlement operation. The most important amendments were effected by Orissa Act XVII of 1947 and Act XIX of 1947. The former brought all pre-settlement whole-Inam villages under the definition of an 'estate' under the Madras Estates Land Act as a result of which the tenants of all Inamdars of such villages got occupancy rights and the latter Act authorised the settlement officers to fix fair and equitable rent in cash and to reduce the existing rent, if found unfair and inequitable. The most important legislative measure, enacted during the course of the settlement operation, which had far reaching effects on the tenures and tenancies, was the Estates Abolition Act. The effect of this enactment on the survey and settlement operation has been dealt with at length at para. 21(*d*) of the Final Report. The Madras Estates Land Act does not recognise tenure-holders (except certain categories of permanent tenures) and under-ryots. Hence, it does not provide for regulating their relationship with their landlords or tenants. Their relationship are left to be governed by contract. This presented some difficulty while preparing the record-of-rights. In consequence, the under-ryots have not been recorded during the settlement operation but some intermediary interests have been recorded following decision of the Revenue Commissioner in the revision case No. 23 of 1944. This was a lacuna in the Madras Estates Land Act. Though the Act has been repealed, still the rights and obligations of the ryots have been continued under Section 8(1) of the Estates Abolition Act. Any future tenancy legislation should take note of this.

7. Chapter IV deal with the method and procedure of preparation of record-of-rights with reference to the legal provisions under the Madras Estates Land Act.

Previously no khewats or the record of proprietory interests was being prepared in Ganjam. In the Major Settlement Operation four types of Khewats have been prepared. Khewat No. 1 has been given to the owner of estates including Inamdars, and Khewat No. 2 has been prepared for Government interested lands. Khewat No. 3 is a Samilat Khewat recording separately the interests of the Land-holders and the Government in cases where the pre-settlement Inam lands were paying quit rent to the Government and Kattubadi to the land-holders. Khewat No. 4 was prepared for irresumable major Darmila Inams which are estates under section 3(2) (*e*) of the Madras Estates Land Act.

Holdingwar Khatians have been prepared for the first time in the district,. The most important and the most numerous status is the ryoti status. As the Madras Estates Land Act recognises only one class of ryots, namely occupancy ryots, there was no scope for preparing Khatas for other types of ryots. The record, therefore, does not exhibit a bewildering varity of statuses found elsewhere. This is a relieving feature.

A separate Poramboke Khata has been prepared for communal lands including village-sites and the area of this Khata has been excluded from the Khewat area of both the land-holder and the Government. The word Poramboke is a Tamil term, which means excluded places of outside tracts and was being loosely used in Madras for all uncultivable waste lands. In the Major Settlement Operation, Poramboke Khata has been prepared only for communal lands, corresponding to Sarbasadharan Khata of North Orissa Settlement. For other types of uncultivable waste lands another Khata called 'Abad Ajogya Anabadi Khata' has been prepared. The question of reversionary right was a subject to much controversy between the Government and the land-holders and it was ultimately decided by the Revenue Commissioner to leave the question open by not including the Poramboke lands in any of the Khewats. This controversy has now been set at rest as the Zamindaries have been abolished and the rights and interests of the Zamindars in these communal lands have been extinguished.

The legal position regarding private lands has been discussed at great length in para. 19 (*i*) (*e*) of the Final Report and also in para. 33 of the Report. Private land Khatas corresponding to Nij-jote Khatas of North Orissa have been prepared during the Major Settlement Operation for the Private lands of the land-holders. No Khata corresponding to Nij-chas Khata was separately prepared. The lands under the cultivating possession

of the land-holders which were not private lands have been included in the Parityakta-o-Bedakhalui Ryoti Khata along with other surrendered and abandoned ryoti waste lands. This mode of recording was not appropriate and may lead to complications in determining the land in Khas possesstion of the intermediaries under the Orissa Estate Abolition Act. It would have been better to open a Nij-chas Khata for such lands. The distinction between the private lands and the Parityakta-O-Bedakhali ryoti lands held by the land-holders has lost much ofits significance after the abolition of the estates except for private lands leased out before the date of vesting by land-holders having less than 33 acres.

The history of Inams and legal provisions governing them have been clearly set forth in para. 99 of the Final Report and the different divisions of inmas and miner Inams have been fully brought out in para. 28. This report will provide a useful guide for those who find Inam problems very complicated. All Inams are under process on liquidation. This tenancy which was the subject-matter of controversy in the Madras Presidency over a century will ceased to exist in no distant future. During the current settlement all minor Inmas in the Zamindary areas have been recorded with their special charcteristisc. The Madras Estates Land Act authorised survy and Settlemrnt of Inmas which were 'estates' only. Survey and settlement operation had been taken up in a large number of Inams presuming them to be estates. But some of the Inamdars sought protection in the Courts. The Courts have up-held their contention in some cases declaring their Inams not to be estates under the Madras Estates Land Act and in some other cases their claims have been rejected. In the former category of villages the survey and settlement operation has become *ab initio* void. The operations will be taken up in such Inamas aferesh under the provision of the Orissa Survey and Settlement Act which authorises taking up of Survey and Settlement operation in all kinds of lands irrespective of their character.

7. A record of irrigation rights has been prepared and embodied in the Irrigation Khatian which forms a part of the record-of-rights in view of the importance attached to such rights in this district. The legal provisions and statistics regarding irrigation have been dealt with at length in paragraph 41 of the Final Report.

8. Chapter V deals with the preparation of records and is mainly concerned with certain techinical aspects of settlement work and is more interesting and valuable to a Settlement Officer than to a general reader. Only one point of importance needs mention. Under the Madras Estates Land Act rent settlement is taken up after final publication of the record-of-rights. During rent settlement stage orders are passed effecting changes in ownership and extent, etc., of holdings. The law provides for amendment of the record-of-rights at this stage by incorporating such changes in the finally published record-of-rights and does not provide for preparation of fresh copies of record-of-rights for distribution to the parties concerned during republication stage. For holdings created during the rent settlement stage supplemental Khatas or 'Ka' Khatas had to be prepared as subsidiary Khatas of the parent holdings as the law did not permit opening of independent Khatas or insertion of entries relating to newly acquired lands in the existing Khatas of the ryots. This has led to much clumsiness in the records. But this was unavoidable.

9. Chapter VI deals with the mehtods and procedure of rent settlement and the principles followed in settling fair and equitable rent. In most of the Zamindaries and Inams the ryots were paying rent in kind and even where cash rent had been fixed, the fixation was not in accordance with any uniform procedure or fixed principle. In the current settlement cash rents in all cases have been fixed according to the principles laid down in rules framed under section 168-A of the Madras Estates Land Act as inserted by Act XIX of 1947.

The guiding principle in fixing fair rent and equitable rent was that the rent should not exceed 25 per cent of the rent prevailing for similar classes of lands in the neighbouring ryotwari areas. Rent Settlement was carried on keeping the above limitation in view. The over all effect of rent settlement was a considerable reduction from the previous rent as the policy of Government was to reduce the rent of Zamindary and Inam ryots to the level of the rent in the ryotwari areas which was generally low and had been fixed about 50 years before. The percentage of reduction has been shown in para. 70 and the reduction varies from 2 per cent in case of Athagada to 72 per cent in case of Inam villages of Aska and Sorada Taulks. This was a retrograde step. No doubt the intention was to give relief to the tenants, but it was carried to a point which drastically reduced the rent in spite of the fact that prices at that time were very high. After abolition of the Zamindaries and Inams Government have assumed the role of Zamindars and they now stand to lose. A revision settlement operation is, therefore, called for to fix a fair and equitable rent in considearation of the high prices now prevailing.

In making entries about 'cess' the rates then prevailing were overlooked and as such inacurate entries have invariably been made in the record-of-rights as pointed out by the Settlement Officer. In spite of the inacurate entries in the record-of-rights the legally payable cess will have to be realised. This will have to be brought to the notice of the district authorities.

10. Chapter VII deals with the consignment of records prepared during the Major Settlement Operation and gives indication as to how they should be properly maintained so as to keep the records up-to-date and useful. It is for the normal revenue administration to take full advantage of the records and rectify whatever defects there might be in these records by a searching mutation operation.

11. Chapter VIII deals with the settlement cost and its recovery. According to the original programme the operations were to be completed by the end of 1944 at an approximate cost of Rs. 6·50 lakhs but the ultimate cost of the settlement operation went up to Rs. 25·96 lakhs. The net cost is Rs. 1,490·85 nP. per square mile as against Rs. 893 in the last North Orissa Revisional Settlement. The net expenditure works out to Rs. 2·12 nP. per plot. The excess over the estimated cost is mainly due to the time-lag between the initiation of the settlement operation and its completion which increased the over all cost. Other contributing factors are increase in salary of employees, increase in cost of materials after the war and also addition of new areas within the programme of survey and settlement. Paucity of experienced staff contributed in no small measure to this high cost of the operation.

12. Chapter IX gives some useful statistics relating to the district. In this also is included statistics relating to soil, agriculture, famine, Floods and other natural calamities. It would have been helpful, if a separate chapter dealing with agricultural conditions, irrigation and natural clalamities some of which items required a broader treatment had been added.

13. Chapter X gives details about each estae and the origin and evolution of Inam estates. This is mainly of academic interest at present owing to abolition of the estates.

14. The last Chapter gives a list of officers who worked in this settlement. Some of them as has been reported by the Settlement Officer, were promoted for their good work done in the settlement. It is not possible to comment on the work of individual officers at this distance of time but it may be mentioned that almost all of them had to work under unfabourable conditions in an area which was new to them and among people who were apathetic, if not hostile. The success of the operation is due to their collective effort and should receive due appreciation.

Shri N. C. Behuria, Settlement Officers has taken a lot of pains to wirte out this interesting Settlement Report after wading through a mass of materials accumulated over years. He had to study the old records and reports and the relevant law and rules with numerous amendments brought about from time to time to present this report in a clear and concise manner. For this excellent work the Board of Revenue recommends for special commendation of this work by Government.

It will not be out of place to mention that the Settlement operation owes much to late Shri S. C. Banerjee, I. A. S., who organised the operation in the beginning with untiring zeal and industry and who ultimately died a premature death while he was on leave after relinquishing his charge as Settlement Officer.

15. Before taking leave I have to say that some of the materials contained in this report will gradually lose much of their significance with the fact changing ideas about the landlord tenants relationship and with the process of eliminating all intermediaries having been set in motion. Still a full and careful examination of the Tenancy laws in Ganjam undertaken by the Settlement Officer would be of great value to the administration and specially to the Revenue Officers who find the laws and practices prevailing in the disrrict bewildering and unintelligible.

Yours faithfully

B. DAS

20-4-63

*Director of Land Records & Surveys Orissa*

OGP—MP-(B. of R.) 44—1,200—5-8-1964

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# FINAL REPORT ON THE MAJOR SETTLEMENT OPERATION IN GANJAM EX-ESTATE AREAS

## CHAPTER I

### INTRODUCTION AND BACKGROUND HISTORY

1. *General description of the district*—(*i*) Ganjam district as it originally existed was the northern-most district of the Division of the Madras Presidency called the Northern Circars. It lay between 18° 12'45" and 20° 25' 40" north latitude and bewteen 83° 33'20" and 85° 15' east longitude and was bounded on the north by Puri district, Nayagarh and Daspalla ex-States and Khondmals district, on the east by the Bay of Bengal, on the south and west by Vizagapatam district. Its area was 8,313 square miles and population according to the Census of 1871 was 1,520,088.

(*ii*) In the beginning, Ganjam district, as it stood after the British conquest, was divided into three divisions (The charges of a SubCollector or Subdivisional Officer in Madras are known as Divisions and not Subdivisions), namely, Ghumsur, Chicacole and Berhampur. Each of these divisions contained a Government taluk besides a number of zamindary estates and in each of these taluks, as a matter of course, there was a Tahsildar assisted by the following Deputy Tahsildars for the revenue and magisterial work—

| | | |
|---|---|---|
| (*a*) Ghumsur Tahsildar | .. | Surada Deputy Tahsildar |
| (*b*) Chicacole Tahsildar | .. | Tekkali and Narasanapeta Deputy Tahsildar |
| (*c*) Berhampur Tahsildar | .. | Ganjam, Purushottampur, Ichhapur and Sompeta Deputy Tahsildars. |

Besides these, there were the Berhampur Town Magistrate, the Sub-Magistrate of Aska and the Sub-Magistrate of Parlakimedi. A Magistrate was also stationed at Udayagiri in Pedakimedi Maliahas, i.e., at R. Udayagiri. Subsequently two divisions, namely, Chatrapur division consisting of portions of Berhampur and Ghumsur divisions and Balliguda divisions consisting of the whole of Ganjam Agency excepting the Parlakimedi Agency were created.

(*iii*) The district, as it stood on the 1st April 1936 after its separation from Madras when the Province of Orissa was created, comprised the whole of Ghumsur division, Chatrapur division, Balliguda division, part of Berhampur taluk and part of Ichhapur taluk in Berhampur division, part of Parlakimedi Plains and the whole of Parlakimedi Agency in Chicacole division. The old taluks of Chicacole, Narasanapeta, Tekkali, a part of Parlakimedi Plains, a part of Ichhapur, the whole of Sompeta and Sompeta Agency at present forming the taluks of Ichhapur, Sompeta, Tekkali, Patapatnam, Narasanapeta and Chicacole in Srikakulam district of Andhra were excluded from the district of Ganjam. The Parlakimedi taluk consisting of a part of Parlakimedi Plains and the whole of Parlakimedi Agency was first included in the district of Koraput on the creation of Orissa for seven months and was t hen transferred to Ganjam.

(*iv*) Before creation of Orissa, the whole of the Ganjam Agency area was divided into three taluks, namely, R. Udayagiri, G. Udayagir and Balliguda and was known as the Balliguda division. A Revenue Divisional Officer, designated as the Special Assistant Agent, Balliguda, held charge of the division. After formation of the State of Orissa on the 1st April 1936, R. Udayagiri taluk was transferred to Berhampur division and Balliguda division was left with the two taluks of G. Udayagiri and Balliguda with its headquarters as before at Russelkonda (now Bhanjanagar) which was and is also the headquarters of Ghumsur division. The Agency areas were then administered under a set of special rules of administration framed under provisions of the Ganjam and Vizagapattam Act, 1839 and the Collector of Ganjam as "Agent" to the Governor (from which the word "Agency" has been derived) was in charge of enforcing the special rules of administration.

(*v*) On the formation of the State of Orissa, the Khondmals subdivision, which was separated from Anugul by the Princely State of Boudh, was constituted into a separate district for the purpose of Khondmals Laws Regulation, 1936, by which it is still governed, but was tagged on to the district of Ganjam with the Collector of Ganjam as its *ex officio* Deputy Commissioner for administrative purposes. The Special Assistant Agent, Balliguda, with his headquarters at Russelkonda, was appointed *ex officio* Subdivisional Officer of the Khondamals subdivision of Ganjam district with a Second Officer stationed at Phulbani to assist him in discharging routine duties. From the 26th January 1941, the office of the Special Assistant Agent, Balliguda, together with his headquarters, was shifted to Phulbani.

(*vi*) The historic event of the merger of the Princely States of India originated in Orissa on the 1st January 1948, thereby necessitating some changes in the existing boundaries of the district. On the 1st January 1948, the ex-Feudatory State of Boudh merged in Orissa and the district of Phulbani, consisting of Balliguda division, Khondmals district and Boudh ex-State, was formed. A separate Deputy Commissioner was appointed for the Khondmals with effect from the 1st January 1948 and the merged State of Boudh was formed into a district for the purpose of criminal administration. The Deputy Commissioner of the Khondmals was appointed as the *ex officio* District Magistrate of the Boudh district and the Collector, Ganjam, ceased to function as the Deputy Commissioner of Khondmals district. Although the Subdivisional Officer, Phulbani, ceased to be under his administrative control, still in his capacity as Special Assistant Agent, Balliguda, he continued to remain under the judicial control of the Collector, Ganjam, because the Ganjam and Vizagapatam Act, 1839, specifically provided that the Collector of Ganjam would be the "Agent" for enforcing the special rules of administration. Subsequently, in February 1949, the Deputy Commissioner of the Khondmals-Phulbani was appointed as the "Additional Agent" of Balliguda division with powers to function as the Agent to the Governor with only a few limitations till the designation of "Agent" and "Special Assistant Agent" were abolished, due to repeal of the Ganjam and Vizagaptam Act by the Koraput and Ganjam Agency (Repealing and Extension Laws) Regulation, 1951 (Regulation V of 1951) which came into

force on the 1st January 1953. Therefore, there was *de jure* separation of Balliguda division from the district of Ganjam only on the 1st January 1953. Since then there has been no furhter changes in the boundaries of the district.

(*vii*) On the 1st April 1936, the area of Ganjam district was 7,398 sq. miles (6,619 sq. miles out of old Ganjam district+779 sq. miles consisting of Khondmals subdivision). On the 1st January 1948 the area of Ganjam district was 4,725 square miles excluding Balliguda division which was 1,894 square miles. The district thus constituted lies between 18° 45′ and 20° 46′ north latitude and 82° 47′ and 85° 11′ east longitude with a population of 1,624,829 according to Census of 1951. According to the Census of 1961 its pupolation is 1,873,655.

(*viii*) The old Ganjam district consisted of the follwoing estates besides ryotwari areas and agency areas.

1. Khallikote, 2. Athgada, 3. Palur, 4. Biridi, 5. Huma, 6. Dharakote, 7. Badagada, 8. Seragada, 9. Pratapgiri or Chinakimedi or Sanakimedi, 10. Vijayanagar or Pedakimedi or Badakimedi, 11. Chikiti, 12. Surangi, 13. Jarada. 14. Aska, 15. Kurla, 16. Debabhumi, 17. Katingia, 18. Parlakimedi, 19. Jalantara, 20. Budarsing, 21. Mandasa, 22. Tarla, 23. Barua, and 24. Urlam.

Out of the above estates, serials 1 to 10 and serials 12 to 17 remained fully to Ganjam district when Orissa was created. A part of Chikiti Estate (sl.11) named as Tala Tampara Mutha consisting of 43 villages having an area of 10 square miles which was in Sompeta taluk was excluded from Ganjam district and the area remaining in Ganjam district was 10·82 square miles. The area of Parlakimedi (sl. 18) as it had existed in the old Ganjam district was 639 square miles, besides Parlakidmedi Agency which covered an area of 333 square miles. The portion of Parlakimedi Estate that remained in Ganjam after creation of Orissa had an area of 201 square miles, besides the whole of Parlakimedi Agency. Serial 17 is solely in Ganjam Agency. Serials 19 to 24 went fully to Andhra State. A short history of each of the above estates in the district of Ganjam will be found in Chapter X.

2. *Physical Feature and Climate*—(*i*) The district abounds in natural sceneries. The Eastern Ghats running on its western side approach to about 23 miles of the sea at some places. The district can be roughly divided into two well-defined physical divisions—the Maliahs or the hills and the plains, the former occupying the whole of the western half and is known as the Agency Tract of Ganjam . It is a wild country and is chiefly inhabited by the Khonds and the Savaras. The Mahendragiri, the highest peak in the district, is situated in this tract. The plains lie between the Eastern Ghats and the Bay of Bengal. The rivers, as may be imagined with the hills so close to the sea are neither large nor long and are, therefore, subject to sudden floods, but they seldom do much damage. The narrow strip of the plains area in Ganjam is solely due to absence of big rivers in Ganjam district. There are no vast alluvial deltaic plains as in the northern districts of Orissa. The Rushikulya which is about 100 miles long is the chief river of the district. It rises from Daringibadi in Balliguda Division, is joined by the Mahanadi (not the Mahanadi near Cuttack) at Aska and enters the sea at Ganjam (a place five miles from Chatrapur). The Ghadahada is the chief tributary of the Rushikulya.

(*ii*) The climate is pleasant and salubrious especially at places near the sea. In the rains which last from June to November with occasinoal showers it is oppressive but the heat is tempered by the rains. The hot weather lasts only about 3 months till about the middle of June while the cold weather is very pleasant. The heat in the interior is very intense and tyring. The hills are cooler than the plains and in winter the cold is sharp and piercing.

3. *Administrative set-up*—(*i*) Excluding Balliguda division, the district was first divided into three revenue divisions, namely, Chatrapur, Berhampur and Ghumsur. The agency portion of the district consists of an area of 1,410 square miles while the area of the plains is 3,315 square miles. Berhampur division had an agency of 1,308 square miles while Ghumsur division had an agency area of 102 square miles. Chatrapur division with an area of 827 square miles consists of Chatrapur and Kodala taluks with headquarters at Chatrapur and Kodala, respectively. Berhampur division had at first an area of 2,207 square miles comprising Berhampur, Digapahandi, R. Udayagiri and Parlakimedi taluks. Ghumsur division had at first an area of 1,619 square miles comprising Ghumsur, Aska and Sorada taluks. In 1956, Parlakimedi division was created with Parlakimedi and R. Udayagiri taluks excepting Goudagotha, Merikot and Jarrou Agency Muthas which were included in Sorada taluk of Ghumsur division. Sanakimedi Estate was taken away from Aska taluk and included in Digapahandi taluk. The present area of Berhampur, Parlakimedi and Ghumsur revenue divisions, after their reconstitution in 1956 is about 892 square miles, 1,611 square miles and 1,395 square miles, respectively.

(*ii*) There is a District Magistrate and Collector at Chatrapur. Each of the revenue divisions is in charge of a Revenue Divisional Officer. The Revenue Divisional Officer, Berhampur, is designated as Sub-Collector. Each of the taluks is in charge of a Taluk Officer. The Taluk Officers were designated as Anchal Adhikaries after abolition of the Estates, which took place in the years 1953 to 1955 under the Orissa Estates Abolition Act, 1951 (Act 1 of 1952) in respect of ex-Estate areas. A part of Berhampur Taluk comprising the three estates Chikiti, Surangi and Jarada was constituted into one Anchal with headquarters at Chikiti. After passing of the Orissa Estates Abolition (Amendment) Act, 1957 (Act 23 of 1957), the management of the estates which had vested in the State Government was brought on par with that of the ryotwari areas. The Taluks and the Anchals are now called Tahsils and the Taluk Officers and the Anchal Adhikaries, as the case may be, are now designated as Tahsildars. Chatrapur division has got two tahsils, namely, Chatrapur and Kodala. Berhampur has got three tahsils, namely, Berhampur, Digpahandy and Chikiti. Bhanjanagar has got three tahsils, namely, Aska, Sorada and Bhanjanagar and Parlakimedi division has got two tahsils, namely, Parlakimedi and R. Udayagiri. Each of the tahsils is divided into several firkas and ecach firka is in charge of a Revenue Inspector. The main duty of the Revenue Inspector is to assist the Tahsildar in the revenue administration of the tahsil and he is the lowest Executive Officer of the Revenue Department. He is required to supervise collection of land revenue and the work of Village Officers. The villages in a firka are divided into convenient groups. Each group is in charge of one Karji (village headman), one Karanam (village accountant) and 2 or 3 Taliaries (village watchmen). Where the group is small, a single Village Officer discharges the functions of both Karji and Karanam with one or two Taliaries. The posts of Village Officers are hereditary. In ryotwari areas they are appointed under the Madras Hereditary Village Offices Act (Act III of 1895). In estate areas they are governed by the provisions of the Madras Proprietary Estates Village Service Act (Act II of 1894). The main duties of the Karanam are to record all crops raised in a particular field, detect encroachments, report cases of unauthorised use of water from Government irrigation sources, maintain village records, prepare the demand of the village, etc. The main duties of the Karji

are to collect land revenue, record births and deaths, maintain sanitation, report appearance of epidemics about bad character, etc. The main duty of the Taliary is to help the village headman in the collection of land revenue. The above three village establishemnts are governed by the Law of Primogeniture in regard to succession. The Supreme Court has ruled that this Law of Hereditary Succession is *ultra vires* of the Constitution. In conformity with the policy of the Government to introduce a uniform system of revenue administration in the entire State, the Hereditary Village Offices Abolition Act, 1962, has been enacted to abolish the Village Officer System. Arrangements are being made to introduce the Naib-Tahsildar system in the entire district after abolishing all Village Officers (The Village Officers' System has since been abolished with effect from the 1st February 1963).

(*iii*) Village administration in Ganjam Agency is different from that of Gajnm Plains. The normal laws of the country were not applicable to Ganjam Agency areas both under the Ganjam and Vizagapatam Act, 1839 and the Scheduled Districts Act, 1874. The civil, criminal, revenue and all executive administration vested in the Collector as "Agent" to the Governor. Special rules of administration called "Agency Rules" were framed by the Governor under section 6 of the Scheduled Districts Act "Agency Standing Orders" were also framed by the Agent to the Governor for the administration of these areas.

The Khonds manage their affairs by means of headmen variously called Malik, Majhi, Patro or Hodadar. Each village has one headman and he has under him a Pano or Paik to send messages, etc. Each Mutha in the same way has a headman called Mutha head or Patamajhi in the Kutia country. These headmen belongs to the same tribe as the villagers—Khonds, Gonds or in the case of Oriya villages, Oriyas. Each collection of Muthas has for its chief a Patro—invariably an Oriya. They are also differently called in different Muthas as Bissoi or Behara Dolai. In Parlakimedi Maliahs they are called Bissois. The Khond people deem it their duty to submit to and obey the Patro unless he gives them offence. They are great sticklers for the right of descent in the case of these Patros, and are not easily satisfied if an heir is set aside without reason. The duties of Mutha head correspond to those of village headman in the plains. But he does not collect any land revenue as in the case of Plains. The Mutha head collects the Mamools described in the Taylor's memoirs. These mamools are different in different parts of the agency. The mamool system has since been abolished by the Government and the mamool has been commuted into cash. The Mutha heads are under the Muthadars who are the hill zamindars of the district and they have got Sanads from the British Government describing the incidents of the tenure under which they held the agency tract adjacent to their zamindaries in the plains. Government have held that their reights are those of a service holder which contention has not been upheld by the High Court in a writ petition filed by the Muthadars. The matter is still under litigation. The administration is gradually being brought on par with that of the Plains area.

4. (*i*) *Early History*—The district originally formed a part of the ancient kingdom of Kalinga which is supposed to have been founded in the 9th century B.C. and which extended from the Bengal frontiers of Orissa to the river Godavari, a distance of some 500 miles. The name still survives in the sea port of Kalingapatam, not far from Chicacole and in early times a place of importance, which was till the 1st April 1936 in Ganjam district. Conquered by the Mauryan King Asoka in 260 B.C. this kingdom seems to have passed later to the Andhra Kings of Bhengi. Both Asoka and the Bhengi Kings were Buddhists and Asoka had left an edict at Jaugada in Chatrapur taluk. In the 12th century an invasion from the South put an end to the Kasari line of kings and the invader Chodaganga Deba became the founder of the Ganga family and assumed the surname of Gajapathi. The Gajapathi princes gave to the country a long line of rulers and their descendants occupied considerable territorial possessions in Orissa including Ganjam. The Rajahs of Ganjam have always looked upon the kings of Orissa as their chief fountatin of honour and they acknowledged the Rajah of Puri a descendant of the ancient Orissa kings as their chief. The dominions of the Orissan kings extended beyond the river Kistna and their power was at its height in the 13th, 14th and 15th centuries. The wild nature of the country in Ganjam renderd their administration merely nominal and they were probably induced by these considerations to establish their own servants as Rajahs or leaders of the messes to keep the wild aboriginal tribes of Khonds and Savaras in check. As late as the 15th century the aboriginal inhabitants, more especially the Savaras still occupied parts of the plains and it was probably not until the reign of Purushottam Deo who reigned from 1479 to 1504 that they were driven back into the hilly fastnesses where they still live. After the fall of Purushottam Deo's son Pratap Rudra Deb in 1532, dissensions seem to have arisen amongst the different members of the Gajapathi family and their power gradually declined during the 16th century which was taken advantage of by the Mohammadan rulers of India.

(*ii*) In 1512, the Kingdom of Golconda or Hyderabad was founded by one Sultan Kutb Shah, a native of persia and his administration was so successful that at the end of a long reign, he left a territory extending from the Godavari to beyond the river Kistna and from the sea to a line west of Hyderabad, about 78th degree of east longitude. In 1520, Sultan Kutb Shah defeated the forces of the United Chiefs of Telengana at Kondapalli in the Kistna district and there is reason to suppose that Pratap Rudra Deb was one of the chiefs who suffered discomfiture. Although the Orissan Kingdom showed signs of decline, still the Gajapathi princes continued in power both in the Province of Chicacole and Rajahmundry until sometime late. About 1571, Ibrahim, the fourth monarch of the Kutbshahi line, took advantage of the uncertain rule in Orissa and made himself master of the Godavari and other districts in the north including Ganjam. For about 180 years, the Ganjam district then known as Chicacole Circar, was controlled more or less directly by the Mussalman authority from Hyderabad. In 1687, Emperor Aurangazeb conquered Golconda to assert his authority in the Decan and the Governors of Srikakulam were thereafter appointed by his Soubahdars of the Deccan. After the death of Aurangazeb, the Maharattas rapidly rose to power and, finding no one in Central India to oppose them, soon over ran the country from west to east establishing themselves in the Province of Orissa, north of Ganjam, in the seventeen-forty. In the meanwhile, the district of Ganjam continued to be administered by the Mussalman Fouzdars at Srikakulam with the assistance of their Naibs or Deputies.

(*iii*) *Acquisition of Ganjam by the English*—The French were the first European power to take possession of the district of Ganjam. They built their fort at Ganjam, a place 5 miles from Chatrapur towards Cuttack, then the most important town of the district. The French got this district from one Salabat Jung, the Subedar of the Deccan, who assigned the Northern Circar to the French out of gratitude for the services rendered by the French to him. But Chicacole Circar, which then included Ganjam district, continued to be administered by a Mussalman Fouzadar at Chicacole subject to the authority of the French. By about 1752 the struggle

for supremacy between the French and the English was at its height. With the capture of Musalipatam, the French headquarters, in January 1759 by Clive's forces under Colonel Forde, the English gained the supremacy in the Northern Circars. Salabat Jung changed sides and made a treaty with Forde agreeing to cede to the English the Northern Circars excepting Guntur. This treaty of Salabat Jung was also confirmed by his brother Nizam Ali who murdered and succeeded him and this was also ultimately ratified by the Moghul Emperor's firman, dated the 12th August 1765. The Emperor by this firman "gave the Northern Circars as inam or free gift to his good friends, the English, from April 1762". However, it was not until another treaty, dated the 12th November 1766, was concluded between the English and Nizam Ali, and the Subedar of the Deccan, that the former took actual possession of the grant. The Subedar of the Deccan agreed by this treaty "to write letters to all the zamindars acquainting them that they were, to regard in future, the English Company as their sovereign and to pay their rents and obedience to the said Company or their deputies without raising any trouble or disturbance". It was thus that the Northern Circars including Chicacole Circars of which the Ganjam district then formed a part, were finally secured to the English. They established their headquarters at Ganjam Fort, which was the headquarters of the French. [This was abandoned in 1855 owing to outbreak of a very dreadful epidemic fever which, in a very short time, reduced the population of the town from 30,000 souls to less than 6,000. The treasury was first transferred to Mansurkota (i.e., Gopalpur, as it was then called), then to Berhampur and ultimately to Chatrapur].

(*iv*) Ganjam, however, took a longer period to be pacified than any area in the Presidency and it was not until 70 years later that it was finally "reduced to order". Most of the numerous zamindars in this area (who had 34 forts and 32, 000 troops) were contumacious, frequently annexing Government villages and quarrelling with one another over disputed successions and declining to pay any tribute until compelled by force. Troops were used at different times against not less than 15 out of them but these expeditions, though they cost them money and often valuable lives, had little permanent effect. The East India Company found it difficult to control the district. Mr. Cotsford was the first Englishman appointed as Resident to take charge of Ganjam in the year 1767. He found the country north of Vizagapatam in a disturbed state, the zamindars in Ganjam having refused to submit to the authorities of the English and intercepting all communications between Bengal and Madras. It is needless to describe in detail the fight that took place between the British and the several Rajahs of Ghumsur, Parlakimedi, Vijayanagar (Badakimedi), Pratapgiri (Sanakimedi) and Mohiri who gave the British the greatest amount of headache from time to time. With regard to the tributes paid by the zamindars of the district the Resident remarks that they were in most cases out of all proportion to the size of the estates, and the ability of the zamindars to pay. He hoped that by gradually demolishing their forts and strong-holds they might be reduced to a state of obedience that would give the Company an opportunity of apportioning their tributes to the size of their respective estates. Mr. Cotsford was, however, of opinion that before this could be done, the zamindars must be reduced by arms, for he says, "they will not submit to it without compulsion. They will not even pay according to the agreements they now make without the assistance of an army in the field, which is the manner they have been accustomed to be treated in. The objections against depriving the zamindars of their territories and placing others in their stead are, that there will be in general great difficulty in finding any one who will accept such a place and can maintain himself in authority without the assistance of a considerable detachment from us, the Company running the risk of promoting a man equally unworthy as the one removed. The same may be said of them in the light of the Haveli lands, for our troops must support the renters in collecting the rents in which they will be much troubled by the adherents of the deprived Raja and have scope sufficient given them to defraud the Company if so disposed". The Company's troops were constantly employed either in demanding the tributes of the zamindars who but rarely paid without either compulsion or threat or in quelling disturbances. When a zamindar was refractory, the troops were quartered upon him and he was made to pay for their keep. For a somewhat detailed account of the fight between the Ganjam zamindars and the English resulting in the ultimate acceptance of defeat by the zamindars, the Ganjam District Manual by T. J. Maltby of late Madras Civil Service may be referred to.

(*v*) Upon the retirement of Mr. Cotsford in 1773, the form of the Government was changed and Mr. Smith was appointed Chief at Ganjam with a Council of three to assist him in the administration of affairs. In 1779, the Council was abolished and Mr. Morgam Williams was appointed to be Resident. In 1782 the office of Resident was again abolished and the council was again revived. It consisted of three but was subsequently increased to five members. Soon quarrel took place in the Settlement at Ganjam among the members of the council which continued without intermission till 1786 and it became so notorious as to call for the interference of Government of Madras. In 1790 the council was again abolished due to this quarrel and Mr. Crawford was appointed Resident. In 1794 the office of the Resident and Chief at all the Settlements along the coast was abolished and the office of Collector which office continues even till today was established and Mr. Walter Balfour was appointed Collector at Ganjam. In 1802 Chicacole division was incorporated with Ganjam and Mr. Cherry became the first Collector of the "United Province". Ganjam district now comprised all the territory north of the Langulya (Nagabali) river near Chicacole, and extended from Mofazbandar on the sea coast in the south to Prayagi on the Chilka lake in the north. It included four district Havellis * and 21 zamindaries including Parlakimedi.

(*vi*) During Mr. Cherry's time the Madras Permanent Settlement Regulation (Regulation XXV of 1802) was passed for making the assessment of the zamindaries permanent on the lines of the Bengal Permanent Settlement Regulation, 1793. With great disadvantages, Mr. Cherry gathered the information for the permanent settlement and successfully implemented its introduction in the district. Mr. Cherry wrote in December 1803 : " I consider the introduction of the permanent settlement as offering the only prospects of permanent peace in the district". A Special Commissioner was appointed to investigate the extent of resources in the district with a view to arriving at a correct statistics of the tributes that might at all times be levied in perpetuity from each zamindary with safety and a fair prospect of realisation. The Commission reported to Government on 19th May 1804. In the same year the zamindars of Ganjam were declared full proprietors. The whole of the district was permanently assessed. The zamindaries were confirmed with their holders in perpetuity and the Haveli lands were parcelled out into small estates and sold by auction to the highest bidders. Some of the zamindars and other proprietors subsequently fell into arrears of revenue and between 1809 and 1850

*Haveli lands are crown lands reserved for the suport of the Governors of the province or members of the royal family and their immediate dependants or for the support of garrisons and other establishments of Mussalman Rulers.

the estates of one after another eventually reverted to Government and formed the Government taluks known as ryotwari areas, that is, the areas where Government had direct dealing with ryots instead of through zamindars or proprietors.

(*vii*) Some of the zamindars in Ganjam such as Parlakimedi, Bodokimedi, Sanokimedi, Bodogada and others were hill zamindars, that is, they had zamindaries both in the plains as well as in the agency areas. Before bringing in the agency portion of their zamindaries under the permanent settlement, the British Government wanted to know more details about the area. In these hilly tracts predominantly inhabited by Khonds and Savaras whose way of life was totally different from those in the plains, communication facilities were extremely meagre and living difficult. In these circumstances it was extremely difficult and time-taking to find out facts necessary for bringing them under a regular settlement. In the usual course, the hill zamindaries would have come under the permanent settlement. But the Ghumsur disturbances turned the course of events. In 1836 disturbances broke out in Ghumsur and the Raja had refused to pay peshcush. Mr. Russel, the then Member of the Board of Revenue, who was successful in quelling the disturbances in Parlakimedi was specifically appointed to control the disturbances at Ghumsur. The Raja fled to the maliahs and the Khonds showed extreme loyalty to him and fought for him. The Khonds became so turbulent that it took sometime before peace was restored in the area. Ghumsur and Sorada were forfeited to Government and with them the Ghumsur and Soroda maliahs (The town of Russulkonda, the headquarters of Ghumsur division, which has recently been renamed as Bhanjanagar, was named after Mr. Russel). To effectively deal with emergencies of this nature in future in these tracts, Government decided to remove the zamindaries—both in the hills and on the plains—from the jurisdiction of the normal administration and put them under the special control of the Collector as "agent" to the Governor with Assistant Agents to help him in administering these areas and for this purpose the Ganjam-Vizagapatam Act, 1839, was passed as earlier stated. Since then these areas are termed as "agency areas" (derived from the term "agent"). Subsequently, however, the zamindaries in the plains were removed from the operation of the Ganjam-Vizagapatam Act and were subject to normal rules of administration.

(*viii*) Thus we find that Ganjam district stood divided broadly into 3 more or less equal revenue divisions, namely, ryotwari area, the zamindary area and the agency area. The extent of zamindary area lying in the middle of the district was roughly 1,777 square miles, the extent of the ryotwari area lying to the north and the south intervened by the Zamindari area was 1,538 square miles and that of the agency area lying to the west of the district was 1,410 square miles.

5. *Early Land Revenue Settlement*—(*i*) In the earliest times the land revenue was the sole Government impost. The land revenue was levied by all Hindu Rajahs in the shape of a proportion of the gross produce and was taken in kind. The amount of Government share was very fluctuating varying from the traditional 1/6th to 2/5th, a third or a half of the gross produce. According to the institutes of Manu, "the state should take an eighth part, a tenth or a twelfth according the to the difference of the soil and the labour necessary to cultivate it".

(*ii*) The organisation employed by the Hindu Rajahs for the determination and collection of the Government share of the produce was evolved out of the village communal system which gradually developed as the races of Southern India passed from a pastoral to an agricultural state. Geographically considered, a village was a group of land holdings collected in one place with one or more than one group of dwellings situated somewhere in the area and with a tract of scrub jungle and grazing ground attached. Politically considered, it resembled a corporation or township usually with its own proper establishment of officers and servants. In each village, there was an accountant who was required to keep a register of the quantity of land held by each cultivator, the part of it cultivated, his means of cultivation, the actual produce, the share payable by and received from him as the Government demand as well as the account of every other circumstance or transaction in his village that concerned the tenure under which the lands were held. Villages were grouped into divisions (Parganas and taluks) and districts (zillas or circars) over each of which officers with similar functions were appointed to receive and account for the revenue. Such was the prevailing aspect of revenue administration in the Hindu kingdoms in the Southern India. But historical and local conditions gave rise to variations in the system of collecting land revenue.

(*iii*) The Government dues were usually taken in kind. In those times when the boundaries of fields were ill-defined it was easier to divide the grain after it had been thrashed out than to calculate money payments accoridng to the quantity and quality of the land actually cultivated. The Government grain was stored in granaries in different villages until the state of prices made it profitable to Government to dispose of it. The first beginning of the change from a mere levy of the share of the grain to a regularly assessed land revenue may fairly be traced to the Emperor Akbar's settlement which began in northern India in 1571.

The general principles of Akbar's settlement were the measurement of the land by an Imperial standard, the division of soil into three classes and the calculation of the average value of the produce upon an average price of 19 years. This period was selected because 19 years being the cycle of the moon, the seasons were supposed to have undergone a complete change. The Government share of the produce was fixed at 1/3rd. At a later date another settlement was carried out by the Mohammadan kings of the Deccan but that was only a copy of the Akbar's settlement.

(*iv*) The measures that were inaugurated may have been introduced by the Mohammadans into those parts of Southern India which came under their direct rule, but this was at least not introduced in Ganjam. Their occupation was strictly a military one and very little change seems to have occurred in the land revenue system. The Police and the Revenue Administration still remained for the most part in the hands of the native chiefs. Wherever such chiefs were not available farmers of land revenue were appointed.

(*v*) The village organisation, however, survived more or less in tact throughout the tumultous times, for they were respected by chieftains and farmers of revenue alike, as being the means of enabling them to draw their rents. The dues were levied arbitrarily and each village was assessed at a lump sum which probably varied at the caprice or need of the chief and the cultivators either assessed themselves or were assessed by the headmen in shares of this lump sum. Thus when the administration of Southern India including the northern Circars fell into the hands of the British, the problem of how to manage the land revenue presented many complexities.

6. *Land Revenue Settlement under the British Government*—(*i*) The first general acquisition of the territory by the East India Company—the first from the revenue point of view—was the country around Madras. The next acquisition of the Company in point of time was the northern Circars five in number, which formed the present districts of Ganjam, Vizagapatam, Srikakulam, Godavari (East and West) and the Kistna. The circumstances under which the Northern Circars were obtained by grant have been dealt in para. 4. It was found that they consisted of large farms held by large renters called zamindars (as in Bengal) or in a few cases by native chiefs dating from the pre-Mohammadan period and of crown lands (Haveli lands) reserved for the support of the Governors of the province or members of the royal family and their immediate dependants. The zamindars were left in possession and the crown lands were parcelled out and leased to revenue farmer for a term of years. In the same year that the Madras Government entered into the management of the Northern Circars, the Bengal Goverment assumed that of Bengal, Bihar and Orissa and experiments conducted in the latter case were very much the same way as in the former. The Bengal Government, however, came earlier to a decision and when Lord Cornawalis arrived in India in 1786, the plan of the permanent settlement with the Bengal zamindars had already been arranged. A tentative settlement of the whole of Bengal for a 10-year period commenced in 1789 and in 1792 the experiment of a permanent settlement was declared to be confirmed.

(*ii*) Pressure was brought to bear on Madras by the Bengal Government to adopt the same policy and the Court of Directors sent out orders to that effect in 1795. The Madras Government was at first not willing to apply the permanent settlement to Madras. But in 1799, positive orders were issued from England that Lord Cornawalis's permanent settlement was to be aopted throughout Madras Presidency. A special Commissioner was appointed and between the years 1802 and 1804 the northern districts of Madras were permanently assessed under Regulation XXV of 1802. The lands already in the hands of the zamindary were confirmed to them in perpetuity, the assessment being fixed at 2/3rd to half of the gross produce, estimated at an average of the previous 13 years. While, however, the amount of assessment then fixed was unalterable, no increase ever being leviable on account of extension of cultivation to waste land, the disposal of which was left entirely in the hands of the zamindars, the zamindars were able to gradually appropriate as rent a larger portion of the produce of each field. The crown lands were parcelled out into estates of convenient size and assessed in a similar manner and sold as permanently settled revenue farms to the highest auction bidder. Regulation XXV of 1802 applied to both these descriptions of land-holders and proprietors and detailed the terms under which they held their property, which were embodied in a document called "Sanad-I-Milkiyat-Istimarar"or deed of permanent property. In this way the zamindaries and the proprietary estates in Ganjam (for detailed history of these estates, *see* Chapter X) came under the permanent settlement.

(*iii*) Doubts as to the desirability of extending permanent settlement to the new territories that had been added from time to time to the Company's possession were expressed as early as 1808, the main objection being the possible loss of revenue. The principles of permanent settlement were called into serious question and were considered to be detriment to the prosperity of the country and happiness of the people. The Court of Directors, therefore, prohibited further extension of permanent settlement to any other part of Madras. Thereafter the system of village settlement was introduced and finally in 1812, the court of Directors ordered that in all the areas that had not come under the permanent settlement the ryotwari system should be introduced and that where rent on any other principle had been fixed, it should be terminated at the end of the term.

(*iv*) Thus, we find that in the Ganjam Plains, two revenue systems were prevailing till the abolition of the zamindaries under the Orissa Estates Abolition Act in the year 1953—one was the zamindary system and the other the ryotwari system.

(*v*) *Ryotwari Tenure*—In 1820, Munro became the Governor of the Madras Presidency and he took his seat in time to preside over the final establishment of the ryotwari system. The intention of the framers of the ryotwari system was to make the assessment on the land permanent. Colonel Read who first introduced the system in Madras issued a proclamation at the time of its introduction declaring that the assessment was fixed forever and Sir Thomas Munro once declared that it was "fixed" and "permanent". Subsequently, however, a change of view had come upon the authorites in England arising from the loss of prospective income to the State. Finally in 1883, the idea of permanency of the ryotwari assessment was formally abandoned.

It is difficult to define the ryotwari tenure in one or two words. Even the Bombay Revenue Code which was the law governing similar tenures in that Presidency avoided a definition of the tenure and merely described certain of its incidents, atributes and limitations. In Madras, there was and still is no law on the subject, Regulation XXV of 1802 having never been held to be applicable to the ryotwari lands. The difficulty of definition arises from no other cause than the inapplicability to oriental tenures of the phraseology of European landed property. The terms of the engagement can easily be enumerated and these terms are sufficiently well understood and practically acted upon by the persons concerned. They have since been embodied in a set of executive instructions of the Board, called the "Board's Standing Orders" which although is not based on any statute, still by usage and practice, has been regarded as having a statutory force. No serious difficulty has ever arisen owing to any difference of opinion as to the interpretation of the ryotwari contract. In ryotwari tenure, the Government deals with an individual who is technically assumed to be acting on his own account and not through a middle man. He is given a document called a patta which records the extent and assessment of each survey field or a portion of a field in his occupation. The patta does not assume to confer any title, but is only a document indicating certain fiscal arrangements between the Government and the individual mentioned in it. No document of acceptance is received by the Government from the ryot as it is considered unnecessary, the law making the land and its produce liable to attachment for arrears of the land revenue in preference to any other claim on the land. The occupant pays the revenue assessed on the area actually occupied by him and this area may be constant or may be varied from year to year by the relinquishment of old fields or taking up of new ones which are either available as waste or in consequence of having been given up by someone else. The patta is liable to revision every year so as to bring it into par with the actual state of affairs. The occupant thus enjoys all the rights of absolute ownership subject only to the payment of revenue due on the lands levied during the year. When he becomes a defaulter, the Government merely sells such portion of his land as is sufficient to cover the amount due and it does not dispossess him by any form of eviction other than that provided by the legislature under Madras Act II of 1864 (The Revenue Recovery Act). The land can be inherited, sold or burdened for debt in precisely the same manner

as a proprietary right, provided that the person in whose name the land is registered in the Government account pays the revenue due to the State. Other incidents of ryotwari tenure will be more fully described in the final report of the ryotwari settlement.

(*vi*) *Principles of Ryotwari Settlement*—The early ryotwari settlement had many defects, one of which was that there was great inequality in the incidence of rent as the rent was not co-related to the extent and productivity of the lands owing to the absence of any accurate survey and classification of lands. It was calculated that on the average, Government at that time took as its share 50 per cent of the gross produce of irrigated land and 35 per cent of the gross produce of unirrigated land, while to give the ryot any real interest in the land and to induce an extension of cultivation, it was thought that the utmost that Government should claim should be from 25 to 30 per cent. The early surveys, even the best of them, were defective. There were no maps—district, taluk or village and no permanent boundaries and the records or the surveys, such as they were, had been but imperfectly preserved. These early surveys moreover extended to only a few districts of the Presidency and there were districts in which the only records of the area liable to assessment were the unchecked entries in the accounts prepared by the village officers. Government decided in 1855 that a general revision should be made of the assessment of the Presidency founded on what seemed to be the only right basis of land revenue settlement—an accurate survey and a more or less exact classification of soils. The Survey and Settlement Departments were then constituted in Madras. The scheme of survey and settlement as originally sketched out was shown under the following 14 heads:—(1) a revenue survey showing all the principal variations in the surface of the soil as hills, jungles, roads, channels, tanks, topes, houses, cultivated and cultivable lands and also exhibiting accurately the sizes of the fields in these last two classes of land. (2) The minimum size of fields was to be one acre of wet and two acres of dry land. Interstitial holdings were to be treated as subdivisions of such fields. (3) Permanent boundary marks were to be established and field, village, and taluk maps prepared. (4) Assessment was to be ryotwar. (5) The terms of the annual settlement made with each ryot were to vary simply with the area or quality of the lands held by the ryot; and his use or non-use of water from a Government source. (6) Soils were to be divided into a few classes based on real tangible differences of composition. (7) The Settlement Officer was to estimate, as nearly as possible, the productive power of the land, stated in quantities of someone of the ordinary grain crops: paddy for irrigated lands, and cumbu, cholam or some other grain for unirrigated. These estimates(grain outturns) were to form the basis of the ultimate assessment. They were to be made on a carefully moderate scale so as to allow for indifferent crops and bad seasons. (8) The land was then to be valued with regard to nearness of village roads, markets, irrigation facilities and, etc., and the field or village was to be classed accordingly. (9) The assessment was to be moderate. Existing rates were generally based on 50 per cent of gross produce for wet and 33 per cent for dry lands. Sir Thomas Munro's maximum was 30 per cent and this was now adopted on the assumption that the average would run at about 25 per cent of the gross produce. (10) The ryots' payment was to vary with the rateable money value (or commutation price) of the standard crop fixed every 7 to 10 years on the average of the same period. (11) It was believed that it would not be found necessary to divide the country for the purpose of official scales of prices, i.e., one scale was to apply to the entire Presidency for the term adopted (But this principle was abandoned in practice, and commutation prices of every district have been calculated independently). (12) The grain outturns were to be unalterable for a period of 50 years. (13) It was to be opened to the ryot to compound for a fixed annual payment for a term of years. (14) The Survey Department and the Settlement Department were to be separate, the former under a Surveyor-General, the latter under a Superintendent of Settlement.

This scheme was accepted in the main by the Court of Directors. Objections taken subsequently with regard to certain detailed points were decided at different times as enumerated below:—

(1) The restrictions as to the size of fields has been removed. The maximum was once fixed at two acres for wet and 4 for dry lands, but now as a rule, each revenue field (i.e., each parcel of land on which previously a separate assessment was fixed) will form a survey field. In exceptional cases two or more revenue fields may be clubbed together subject to the following conditions: (*a*) Every survey field so formed must consist of entire revenue fields (*b*) No Survey field so united must exceed six acres of wet or 12 acres of dry land (*c*) The revenue fields forming a survey field should be held on the same tenure. Inam and Government land should not be taken together. (*d*) No existing revenue field need be divided, however, large. Subdivision of sruvey fields is allowed without limit of extent, except when it is for the purpose of relinquishment. In such a case it should not be less than two acres, if dry, and one acre, if wet, unless the portion relinquished has been destroyed or rendered useless by causes beyond the ryots' control.

(2) The assessment was to be made on the net produce, i.e., after deducting the expenses of cultivation and a percentage for vicissitudes of season, unprofitable areas and, etc. In 1864, the Government share of the net produce was fixed by the Secretary of State at one-half of the net produce.

(3) The term of settlement was to be 30 years, i.e., both grain outturns and commutation prices were to remain unalterable for that period.

(4) Leases for a term of years at reduced rents were found to be unnecessary for the encouragement of large holdings.

(5) The land assessments were fixed without reference to the facilities for irrigation In districts subsequently settled, the assessment on irrigated lands was determined by a consideration of the value of the paddy crop grown on the best irrigated land, gradations of rates being formed to meet the conditions of inferior qualities of soil or defects in the sufficiency or regularity of the water-supply.

(6) Formerly, it was the practice to charge the rates settled for irrigated lands, on lands irrigated by wells, where such wells were situated within a distance of ten yards of a Government source of irrigation, although Government had incurred no expense in sinking the wells. The justification offered for this infringement of the rule, that improvements effected at the sole cost of the cultivator should not be subject to taxation was that the wells derived their water-supply by percolation from the Government source. Under recent orders, however, such lands are no longer assessed as irrigated, and the cultivator is allowed to enjoy the benefit of irrigation from his well free of any additional charge.

The settlement of Ganjam district on the above ryotwari principles in the areas held directly by Government was undertaken in Fasli 1287 (1877) and finished in Fasli 1289 (1879). In some areas it also extended up to 1884. The rates for wet lands varied from Rs. 5-8-0 to Rs. 1-4-0 and for dry from Rs. 4-0-0 to Re. 0-4-0 per acre. The expenditure on Survey Department was Rs. 8,74,613 and that on Settlement Department was Rs. 3,95,883. Final result of this settlement in the ryotwari areas was a net increase of Rs. 99,986 the previous demand of Rs. 6,66,409

having increased to Rs. 7,66,395. Unfortunately no final report of the then ryotwari settlement or of any revision settlement that took place, seems to have been prepared or, even if prepared, is not available. The principles of ryotwari settlement did not vary since then excepting in a very few cases and this may be found embodied in paragraph 2 of the Standing Order No. 1 of the Board of Revenue. The revision settlement in the ryotwari areas was done between the years 1904 to 1910.

7. *The Madras Estates Land Act, 1908 (Act I of 1908)*—(*i*) Whatever be the correct theory of law or political economy as to the nature of the rights of Government in respect of land, it is apparent that the Government, as representing the interests of the people, must exercise a considerable amount of interference in affairs connected with land. Whether this is called executive administration or exercise of a proprietary right, is not of much importance. In the case of zamindars, the land has been perpetually assigned by Government with a proprietary title, at any rate as against itself only. They held Sanad-i-Milkiyat--Istimarar under Regulation XXV of 1802. Even from the beginning, the British Government foresaw the possibility of rack-renting of the ryots by the zamindars. So in Regulation XXV on of 1802, it is stipulated under section 14 that the zamindars should enter into engagements with their ryots for a rent either in money or in kind and shall grant to each ryot a patta defining the amount to be paid by him and explaining very condition of the engagement and shall grant regular receipts to the ryots. Since the permanent settlement regulation was misinterpreated as meaning that the ryot was at the mercy of the zamindar for his occupation of the land, Madras Regulation IV of 1822 had to be passed interpreting the permanent settlement regulation to be what it was. Madras Regualtion IV of 1822 expressly declared that the Permanent Settlement Regulation of 1802 was not intended to "define, limit, infringe or destroy the actual rights of any description of land holders and tenants". Regulation V of that year was enacted for greater protection of ryots. In 1831, an attempt to amend Regulation V of 1822 proved ineffective. The idea to enact a Revenue Code in 1855 was also given up owing to difficulties connected with it pending the Imperial discussion. It was only when the Act VIII of 1865 was passed that the ryots got specific statutory protection to some extent. This Act was enacted "to consolidate and simplify the various laws which have been passed relating to land-holders and their tenants and to provide a uniform process for the recovery of rent". It contained provisions relating to exchange of pattas and muchilikas which had ruinous effects on the rights of the ryots. In 1871, the High Court interpreted the patta to mean acceptance by the ryot of the position of a yearly tenant. This interpretation of the High Court had far reaching consequences and the zamindars attempted to procure from their ryots agreements containing a stereotyped clause to the effect that the zamindar had much liberty to lease out the lands at his pleasure. The zamindars of Ganjam rarely did evict any ryot under this clause as they were interested in rent and not in the land and so long the ryot was not actually evicted, he was more or less prepared to sign anything. In 1882 a Bill was drafted for securing occupancy rights to ryots in zamindary areas but it was ultimately dropped. Another attempt was made in 1884 and that also met with the same fate. Four years later, the question was again taken up and a draft was prepared. This draft was revised from time to time and thereafter introduced in the Madras Legislative Council in 1905, which ultimately became the Madras Estates Land Act (Act I of 1908) under which preparation of record-of-rights and settlement of rent were conducted in the Major Settlement Operations in Ganjam.

(*ii*) This Act, in short, was the product of the anxiety of the part of Government to protect the interests of the helpless millions of the cultivating tenants. This laid down for the first time the provisions relating to preparation of record-of-rights and settlement of rent and the Government assumed the power to make an order directing that a survey be made and a record-of-rights prepared in respect of an estate or a portion of an estate either on the application of the ryots or *suo moto* by Government, where in their opinion the preparation of such a record was necessary in public interest. It was the first enactment defining the substantive rights and liablities of the land-holder and their ryots. So far as Ganjam district was concerned it applied only to the estate or zamindary areas of the district. It made a general declaration of the existence of the occupancy rights of the ryots and proceeded on the footing that title to the land arose from occupation and gave legislative sanction to the ancient Hindu Law that Government or its assignee, the zamindar, was entitled to a share of the produce and not to the possession of the cultivated land. The Act made elaborate provision for enforcement of the rights of the ryots and in this respect followed more or less the provisions of the Bengal Tenancy Act. But it also took peculiar circumstances of Madras into due consideration and to that extent differed from some of the more important provisions of the Bengal Tenancy Act. For example, the institution of tenure-holder that played a very important part in the tenancy system of Bengal did not have any recognition in the Madras Estates Land Act, 1908, excepting to the limited extent that permanent under-tenure in cetain circumstnces would come withing the definition of "Estate", whereas the Bengal Tenancy Act recognised three kinds of ryots, namely, (1) ryots at fixed rates, (2) occupancy ryots and (3) non-occupancy ryots, the Madras Estates Land Act, 1908 put all the ryots into one class with rights of occupancy. The difference in tenancy rights between the two Acts has been more fully described in Chapter III.

(*iii*) After 1908, there were certain amendments to the Act by Act IV of 1909 to make the provisions clear and to remove a few drafting inconsistencies. Since then other defects and difficulties in separable from a first attempt in the field of land legislation were disclosed by numerous decisions of the Privy Council, High Court and the Board of Revenue. In 1913 and 1914 some bills were introduced for amending the Act. But before the Bills could be passed in the Legislature, the First World War intervened and their consideration was postponed., In 1922 and again in 1924 committees were constituted for considering the amendments necessary to the Act. The Amending Bill was ultimately introduced in the Council in 1932. This Bill ultimately became Law and it contained some major improvements over the previous Act. The more important clauses were—(*a*) the conferring of occupancy rights on persons in unauthorised occupation of ryoti land for a continuous period of 12 years, (*b*) improvements of the provisions of the Act relating to communal lands, (*c*) making commutation compulsory, (*d*) giving powers to Government to direct a Settlement of rent on their own motion, (*e*) abolition of the distinction between "old waste" lands and other waste lands, etc.

The history of the amendment regarding inam 'estates' has been given in Chapter X.

Before creation of Orissa there was one more important amendment to the Madras Estates Land Act, by Act VI of 1936 by which section 39-A was inserted as a result of the introduction of a non-official Bill in the Legislative Council in 1935 by Shri M. G. Patnaik of Ganjam which mainly intended to meet the situation caused by the phenomenal fall in the prices of staple food crops after the year 1931. By this amendment the ryots were entitled to proportionate reduction of rent on application, where the rent of the holding had been enhanced under section 30 or commuted under section 40 or settled under Chapter XII on the ground of reduction of prices by not less than 18¾ per cent. A majority of the zamindary ryots in Ganjam did not, however, derive much benefit out of this provision as most of them were paying rents in kind.

(*iv*) Such was the position of the tenancy law in the zamindary areas of Ganjam on the eve of separation of Orissa on the 1st April 1936. It is clear that the enjoyment of the rights of the tenants conferred by any statute with respect to their lands was largely dependant on availability of record-of-rights based on correct survey which had been done in the ryotwari areas of Ganjam as has been stated in paragraph 6. The provisions of the Madras Estates Land Act, 1908 regarding survey, preparation of record-of-rights and settlement of rent were not availed of in most of the estates till the creation of Orissa. Even where a survey had been made or a record-of-rights prepared or rent settled, the work was generally unsatisfactory. The law provided that the record-of-rights operation could be initiated either by Government *suo moto* or on application by the party. But Government never bothered to apply the provision of the law *suo moto* in any of the estates as Government were not entitled to enhance revenue from these permanently settled estates. It was not, therefore, considered desirable to spend money in going through the elaborate process of survey and record-of-rights under the Madras Codes which was very costly. No landlord would like to apply for a survey and record-of-rights operation as there was always the definite possibility of the gross rentals being reduced by the settlement operation. This is because 50 per cent of the gross produce of the lands were charged as rent and settlement operation done on the scientific lines would naturally reduce the rent. The ryots were not organised in such a way as to apply for survey and settlement operations thereby incurring the displeasure of the zamindars who were considered to be men of importance by the Government. The provision of the law that the party applying for a survey and record-of-rights operation would deposit the cost in advance meant negation of the rights of the ryots. As the matter of survey and settlement was left to the initiative of the private parties, there had been no large scale settlement operation in the estate areas of Ganjam. Every where the zamindar claimed a right to half of the gross produce of the land as a " legal right " excepting Parlakimedi where the rents had been commuted as long ago as 1860. In Parlakimedi survey, preparation of record-of-rights and settlement of rent operations under the Madras Estates Land Act, 1908, were done once in the year 1913 and the revision settlement was done in the year 1939. Information regarding the system of rentals, etc., prevailing in each of the estates has been given in Chapter VI and information regarding the stage and method of survey, etc., in each of these estates has been given in Chapters X and II respectively. Generally speaking, the landlords were satisfied with a survey operation only, because the subsequent operation would, as they feared, hit at the source of their income. The Madras Law under the Madras Survey and Boundaries Act made provision for survey alone without preparation of record-of-rights and settlement of rent. There were, however, instances where landlords had initiated record-of-rights and rent settlement operations, as shown in subsequent chapters, but the rent settlement done in the minor settlement operation was not done on proper principles and so it had to be drastically reduced in the Major Settlement.

8. *Initiation and progress of the settlement operation*—(*i*) It has already been stated in para. 6 that the ryotwari tracts in the district of Ganjam were completely surveyed and settled. The Agency tracts could not be surveyed owing to difficult nature of the country and the absence of any landed right or land revenue proper. Only the Chakapad Khandam of Balliguda subdivision, which was then a part of Ghumsur taluk, was surveyed and settled on ryotwari principles. In respect of all the zamindary tracts of Ganjam, the position was very unsatisfactory. At the initiative of some zamindars and ryots, survey operations had been undertaken from time to time. Being isolated attempts made at different times, they were not governed by any general policy or uniform procedure. Thus as early as 1901 Seragada estate was surveyed and the last to have been surveyed was Chikiti in 1918. In Bodokhimidi estate survey was done under field measurement book system and that in Khallikote and Athgada estates under a new system introduced for the first time in Madras known as the Khallikote and Athagada system. A third system, namely, Punganur system was followed in Chikiti estate. These systems have been more fully described in Chapter II. Similar had been the difficulty with regard to the record-of-rights which was prepared at different times for different estates and generally the record-of-rights was not a complete document. It mentioned only the name of the ryot and there was no mention of the parentage and further description of the ryots' identification. When Orissa was created in 1936, a minor settlement operation under the control of the Collector, Ganjam, was in progsess. It covered blocks of villages in Khallikote, Athagada, Dharakote, Surangi, Jarada, Bodokhimidi and Parlakhimedi estates. A Special Officer designated as Special Revenue Officer was in direct charge of the operation. In the latter part of 1937 Mr. J. R. Dain, the then Revenue Commissioner made an intensive tour in the district particularly in the estates where the minor settlement operation was in progress and in his inspection note discussed atlength the agricultural, social and economic condition prevailing in Ganjam estates, the provisions of the tenancy law (Madras Estates Land Act, 1908), the Madras procedure then followed in survey, preparing record-of-rights and in settling rent and the cost incurred in the operation, etc. He was of the opinion that the cost involved in record-of-rights and settlement operation was not commensurate with the results achieved. He opined that the entire zamindary areas in the district should be brought under survey, record-of-rights and rent settlement operation to be conducted under the Bihar and Orissa pattern. In the provisional conclusion he has observed as follows :—

" In the first place rent settlement as it is now being done ought to be stopped. It is not really a fair rent and is costing more than it is worth. The settled villages should be left as they are for the moment. Heroic remedies will probably produce rent no more fair than the rent which has been settled as yet we do not know how to fix fair rent. I would be inclined to order a record-of-rights and rent settlement for the whole of the remaining zamindary area. If done as a whole, it can be done at a reasonable cost. While preparing the record-of-rights we can study the existing rent and form an idea of how to substitute a fair cash rent for them. Rent settlement is essential. If we disturb the existing arrangements by definitions and record-of-rights, we must replace them by something else. I would be inclined to modify the form of map and record and to have a simple cadastra map as in Bihar. Whether we should settle rent by holdings as in Bihar or by plots as in Madras is a matter in which opinions may differ. It seems desirable to produce a ryoti khatian in addition to or in place of the present Khasara (which was then called the record-of-rights). It is beyond doubt that more of the work should be done in the field in the presence of the ryots with a field bujharat. The record should also extent to under-ryots or at least the village descriptive note should describe the customs by which they hold. All these are matters of details which should considered later."

(*ii*) This was a turning point in the history of the settlement operation in the district and the valuable suggestion made by the Revenue Commissioner set the ball rolling. The suggestion of the Revenue Commissioner was duly considered by Government and the Council of Ministers held on the 9th April 1938 decided as follows :—

" Settlement operations will be taken up in two blocks, record-of-rights will thus take 3 years to complete. It is not necessary to consult the land-holders and ryots before Government order for preparation of record-of-

rights and settlement of rent for the remaining areas in the estates of the district. Settlement of rent will follow record-of-rights."

The Settlement Officer was asked through the Collector of Ganjam by the Revenue Commissioner, Orissa, to study the question and draw up a rough programme for settlement operations in Ganjam. Accordingly the Settlement Officer submitted a budget for Ganjam Major Settlement covering the period 1938 to 1944. The budget was approved by Government with slight modification for Rs. 6·54 lakhs. From the 1st December 1938 the Settlement Officer had been concerned solely with the major settlement in zamindary areas. The Major Settlement Office was transferred from Chatrapur to Berhampur on the 23rd January 1939. The minor settlement continuing in a few villages was under the charge of a Deputy Collector on special duty till the 30th November 1938 when it was transferred to the direct control of the Collector, Ganjam. The Deputy Collector was empowered as Collector under Chapter XI of the Madras Estates Land Act, 1908, to attend to the work of the minor settlement. The Settlement Officer, Ganjam, was also kept in charge of the settlement operations in Koraput district where the first experimental settlement in 20 villages of Boipariguda area had been taken up. This was followed by settlement operation in a wider scale in Koraput district in 1941. In Ganjam district the major settlement operation was started and continued at different stages in Blocks A, B and C from December 1938 to June 1942, when the operations were temporarily closed due to war emergency. The Settlement Office with all papers and records was shifted to Jeypore in Koraput district. The Tahsildar, Jeypore, attended to the routine files of the Settlement Office under the control of the Collector, Koraput. Government in their order No. 8079-R., dated the 8th December 1946, ordered to resume the Ganjam and Koraput settlement operations. A Special Officer was appointed from the 5th March 1947 for preliminary work leading to the resumption of settlement operations in Ganjam and Koraput districts. During 1947 to 1954 the major settlement operation in Ganjam continued at different stages in Blocks A, B, C and D (covering all inam estates) till the operations were again suspended suddenly on account of orders passed in the Bodogodo case No. O. J. C. 64/52 declaring the settlement procedure illegal. The operations were resumed after passing of the Ganjam and Koraput Survey and Settlement (Validation) Act (Act VII of 1956).

(*iii*) According to the earlier programme 1604 (i.e., 1577 zamindary villages and 27 Darmilla inam villages) villages lying in different zamindary and proprietary estates were taken up in Blocks A, B and C. After the passing of the Madras Estates Land (Orissa Second Amendment) Act, 1946 (Orissa Act XVII of 1947) all the pre-settlement whole inam villages came under the definition of "estate" and as the tenants of the inamdars were mostly paying kind rent and the inam villages were generally unsurveyed, Government decided to start survey and settlement operations in those villages. 476 inam estates and 35 Darmilla inam villages including 3 resumed pre-settlement inam villages were taken up in Block D from the year 1948 and they were scattered villages lying within the geographical boundaries either of the zamindaries including Parlakimedi or the ryotwari areas. In the meantime Madras Estates Land (Orissa Amendment) Act, 1947 (Act XIX of 1947) was passed inserting section 168-A of the Madras Estates Land Act, 1908, with a view to fixing fair and equitable rent in cash in the estate areas and reducing the rent where they were unfair and inequitable. The circumstances leading to the passing of this Act will be more fully described in the Rent Settlement Chapter at paragraph 65. In various notifications issued from time to time, Government ordered for fixing fair and equitable rent in 1562 zamindari villages, i.e., in the ryoti villages of all the zamindaries taken up in the major settlement operations. Accordingly settlement operations were taken up and completed in all excepting 4 villages for reasons given in Appendix I. The rent settlement operations in the inam estates were not taken up owing to Bodogodo writ case declaring the settlement procedure illegal. After passing of the Ganjam and Koraput Survey and Settlement Validation Act (Act VII of 1956) pending operations were resumed and rent settlement in the inam estates was also ordered. Rent settlement in 278 inam villages out of 538 such villages (i. e. 476 inam estates, 59 Darmilla inam villages and 3 resumed pre-settlement inam villages) have since been completed. No rent settlement was taken up in respect of 9 zamindary villages and 124 inam villages including 1 resumed pre-settlement inam village as there were no ryoti holdings in these villages. So out of a total number of 2,115 villages (i.e., 1,577 zamindary and 538 inam villages) taken up in the Major Settlement operation the work in respect of 1,969 villages has been completely finished. The operations in 146 villages could not be completed as in case of 127 inam villages the Inamdars filed writs or suits in the High Court or Civil Court, as the case may be, the remaining 19 villages (i.e. 9 inam villages and 10 zamindary villages) were held up due to specific problems. The present position of these 146 villages has been given in Appendix I.

9. *Difficulty in having correct list of villages*—Great difficulty was experienced from the beginning of the settlement operation till the last stage in having an up-to-date list of estate ryoti villages, pre-settlement whole inam villages and Darmilla whole inam villages. Neither the land-holders nor the Collector were in possession of correct and up-to-date information. The reason for this is that the definition of village as given in the Madras Estates Land Act, 1908, was very elastic. It included hamlets also and a new village was created when a new hamlet sprang up or a separate land account was opened by the land-holder. The pre-settlement inam and Darmilla inam villages were scattered all over the zamindaries and ryotwari areas. Only a few inam villages had been surveyed from before and the majority of them had not been surveyed at all. In every case an enquiry had to be made whether the village had been previously surveyed and record-of-rights prepared and whether it was pre-settlement or Darmilla inam or a ryotwari village. Reports received from various Tahsildars of Kodala, Chikiti and Digapahandi showed that 26 scattered villages situated on the top of hills had not been taken up for survey by this Department. As this was discovered at a later stage, survey of these villages could not be taken up and they have now been included in the programme of ryotwari villages.

10. *Areas Excluded*—For the reasons given in the foregoing paragraphs (paragraphs 7 and 8) the ryoti villages of Parlakimedi which had been surveyed and settled before and the Government ryotwari villages were not included in the programme of the major settlement operation. There was no order of the Government for taking up agency areas for survey and record-of-rights. A programme for survey, preparation of record-of-rights and settlement of rent in the ryotwari areas, jeroyati villages of Parlakimedi ex-estate and the agency areas have since been approved by Government to be taken up under provisions of the Orissa Survey and Settlement Act, 1958. The operations in the former two areas have commenced from the field season of 1960-61 and 1961-62 respectively. The operation in the Agency areas is programmed to be taken up in the field season of 1963-64. With the completion of operation in these areas, a separate final report for ryotwari and agency settlement will be prepared.

## CHAPTER II

### SURVEY

11. *General*—(*i*) Survey is a technical matter and has nothing much to do with the tenancy laws of the area, whereas record-of-rights and settlement operations are closely connected with the revenue and the tenancy system. The various laws relating to survey in different areas of the State were passed at different times providing for undertaking survey operations, embedding of stones to demarcate and preserve the boundaries of villages and fields and to give the Survey Officers powers to enter upon lands and to remove material obstructions to survey work. Revenue survey is not an end in itself but a means to an end, i.e., it helps in knowing the correct position and area of lands of the ryots and leads to correct preparation of record-of-rights and settlement of rent based on extent and classification. Preparation of record-of-rights and settlement of rent always follow survey. In the areas governed by the Orissa Tenancy Act, when a record-of-rights operation was ordered survey was done under the Bengal Survey Act. Similarly when a record-of-rights operation was ordered under the Madras Estates Land Act, 1908, survey had to be made under the Madras Survey and Boundaries Act as provided in section 164 (3) of the Madras Estates Land Act, 1908. While the broad principles of survey were governed by Statutory Acts and Rules, the detailed procedure and technicalities were left to be governed by executive instructions. The technical rules of Settlement Department of the Bihar and Orissa, Volumes I, II and III prescribe the method of survey under the Bihar and Orissa System. The Madras Survey Manual, Volumes I to III prescribe the procedure followed under the Madras system. The difference in the two systems of survey will be explained in subsequent paragraphs of this Chapter.

(*ii*) There are three kinds of surveys—(*a*) Trigonometrical—to ascertain the general bearing of the country, (*b*) the topographical for producing maps of which the typical size is 1"=1 mile and (*c*) the revenue survey which defines the boundaries of properties. The first is the most scientific and the third is practically the most useful. Triangulation forms almost the sole operation in the first. The revenue survey comprises two operations, namely, theodolite survey and cadastral survey. The first is a survey with theodolite and chain based on the trigonometrical work of the Survey of India. The second is a survey with chain, optical square, offset scale with or without plane-table based on the theodolite work just mentioned. The object of the theodolite survey is to provide a sufficient number of accurately fixed points for the Cadastral Survey. These points are about half a mile apart and include all junctions of three or more village boundaries. With the exception of these village trijunctions, the fixed points are not generally boundary marks. All the points are permanently marked with stones. As a rule, every square mile of cultivated land contains about 6 of these fixed points. It is not necessary here to give details of the technicalities of the theodolite survey. In less developed areas where great accuracy is not desire the purpose can be achieved either by Prismatic Compass Traverse or by Plane-table Traverse. The Cadastral Survey is based upon the traverse done by either theodolite, prismatic or by plane-table and there are several systems of cadastral survey as will be discussed in the subsequent paragraphs 13 to 14.

12. *Law regarding Survey*—(*i*) The legal provisions under which survey work in Madras Presidency was conducted were those contained in Act XXVIII of 1860 " An Act for the establishment and maintenance of boundary marks and for facilitating the settlement of boundary disputes in the Presidency of Fort St. George " and in Act II of 1884 " An Act to make further provision for the maintenance of boundary marks ". Act XXVIII of 1860 dealt with the whole subject " *ab initio* " giving power to determine the boundaries of both of villages and fields and to settle disputes. Under this law, Government was to bear the cost of all stones at survey stations which were not boundary marks and of all boundary marks in unoccupied Government lands. The owners or occupiers were to bear the cost of boundary marks which defined their properties. A penalty of Rs. 50 could be levied by a Magistrate for removal or erasing of or wilful damage to boundary marks, half of the penalty going to the informer and half to the cost of restoration. Under section I of Act II of 1884 the owner or occupier was made responsible for the maintenance of the boundary marks of his estate and under the remaining sections the procedure was laid down in which the Collector was enabled to enforce the maintenance of the demarcation generally and to recover, if necessary, the expenses incurred in connection with boundary marks from the owner or occupiers of the lands in the villages. These two Acts were repealed by Madras Survey and Boundaries Act IV of 1897, " An Act to amend the law relating to survey of lands and settlement of boundary disputes ". While embodying in effect the provisions of the two previous Acts, this Act enabled the Government to undertake the survey of the private estates on the application and at the expense of the proprietors. Act IV of 1897 was repealed in 1923 and a new Act—the Madras Survey and Boundaries Act, 1923 (Act VIII of 1923)—" An Act to amend the law relating to survey of lands and settlement of boundary disputes " was passed. The most important amendment in it provided that the record of the survey would be the conclusive proof that the boundaries determined and recorded had been correctly determined and recorded unless the survey was modified by a decree by a Civil Court within 3 years of the notification of its completion. There was some slight drafting amendment made to this Act by Madras Act II of 1925. So the Madras Survey and Boundaries Act 1923, was the law governing survey when the Province of Orissa was created on the 1st April 1936 and the Ganjam Settlement Operations started in the year 1938 and this law was applicable in the ryotwari as well as in the Estate areas.

(*ii*) The Statutory Rules framed under the Madras Survey and Boundaries Act provided that stones of durable quality and of the prescribed sizes should be embedded at the bends and corners of all survey fields and at village trijunctions and some other points of the village boundaries. A survey field consisted of one or more plots of land subject to a maximum of 5 acres of wet land and 10 acres of dry land and the plots within a survey field which were technically called subdivisions might belong to different persons and might be of different status. These survey fields without subdivisions appeared on the village maps and the subdivisions in respect of each survey number were shown with measurements noted on them in a register otherwise known as Field Measurement book. The unit of survey was, therefore, a survey field instead of the village as in the Bihar and Orissa system and the maps of the survey fields of a village were prepared in different scales according to their size and were independently shown in the field measurement book. Thus the land of a particular person could not be seen in its relative position to the lands of a village as a whole. Identification was difficult except with the village map as well as the field measurement book, whereas under the Bihar and Orissa system a single village map could serve the purpose. The time and the cost involved in the chain survey system as the system under the Madras Survey and Boundaries Act was generally called, was prohibitive and discouraging. Mr. J. R. Dain had, therefore, recommended the Bihar and Orissa pattern which was less costly. But this could not be done

without amendment to the Statutory Rules. Under the plane-table system of survey the village is taken as the unit of survey and after traverse by theodolite or plane-table, as the case may be, the area within the traverse boundary of the village is divided into morabbas or quadrilaterals for facility of survey. Detailed plotting or kistwar is done on sikimi lines or sub-lines run from one point of a morabba line to another point in the opposite side of the morabba. In Bihar and Orissa System, these morabba stations are not preserved by embedding stones or other permanent marks for facility of identification although stones are embedded at village trijunctions. A large number of adopted stations or permanent marks are surveyed in position within the village to serve as fixed points from which lines can be drawn for identification of fields or for formation of another system of morabbas in future survey. As the ryots in Ganjam had great sentimental approach to stones, it was not easy to altogether do away with the idea of embedding stones in the villages. A *via media* was, therefore, suggested by which stones were to be embedded at all morabba or quadrilateral points besides the trijunction of the villages. The necessary amendments were carried out to the rules under the Madras Survey and Boundaries Act in Revenue Department notification No. 4878-R., dated the 4th December 1940. By this amendment it was provided that stones should be embedded at the following points :—

(1) Theodolite stones of the prescribed size—that is, of the size measuring 3′×9″×9″ with a plummet hole cut on the top and a broad arrow on one side (in estates letters E, Z or any other distinguishing marks as may be decided on in consultation with the proprietor may be cut instead of the broad arrow) to be embedded at all trijunctions of villages and at all theodolite stations of all zamindary villages where they adjoin ryotwari or pre-settlement inam villages or villages of another zamindary or unsurveyed tract.

(2) In areas surveyed under the system of preparing the detailed village map as the survey proceeds on the fields (this is the Bihar and Orissa System of Plane-table Survey), field stones of the size 2′×6″×6″ with a broad arrow cut on one side—to be embedded at all the starting and closing points of quadrilateral lines where these points do not fall inside cultivated fields or do not coincide with village trijunctions or other points already marked with theodolite stones.

(3) To suit special local conditions or requirements the Local Government by special order may direct the demarcation by stones of such points as the Director of Land Records and Surveys deems necessary.

By virtue of this amendment the system of embedding stones at all bends and corners of survey fields was done away with and embedding stones at morabba points was introduced.

(*iii*) Under the rules framed under the Madras Survey and Boundaries Act the following records have to be prepared by the Survey Officer :—

(1) Field Register (also known as Survey Land Register or S. L. R.) showing the number and area of each survey field and subdivision and, as far as ascertainable, the tenure and ownership of the same.

(2) Record of measurement or field measurement book plotted to scale and showing the measurements taken for each field and subdivision.

(3) Map plotted to scale showing all survey fields with important topographical details.

These are completely different from the system of mapping and recording under the Bihar and Orissa System. To enable the Major Settlement Operation to carry on the work under the Bihar and Orissa System, this rule was amended in 1940 by adding the following proviso at the end of rule 3 of the rules under the heading "Rules under clause 2(*b*)" :

"Provided that if the Provincial Government by special order in any case so direct, the map referred to in item (3) shall also show all fields and subdivisions and such measurements as the Director of Land Records and Surveys may direct, and in such a case it will not be necessary to prepare the record referred to in item (2)". This addition of the proviso gave the necessary authority to prepare the village plans under the Bihar and Orissa System as subdivisions which correspond to plots could be shown in the village maps and where this was done the field measurement book (or F. M. B., as it is usually called) was done away with. But the provision in the rules regarding preparation of the field register otherwise known as Survey Land Register still remained. After a great deal of discussion it was thought desirable to amend the form of the Survey Land Register as it was considered time-taking and wasteful to prepare a Survey Land Register in addition to the Khatian which was to be prepared under the Madras Estates Land Act, 1908. The Board of Revenue, therefore, approved a combined form both for the field register as well as for the khatian which contained all the particulars necessary to be recorded under the Madras Survey and Boundaries Act as well as under the Madras Estates Land Act, 1908. The heading of the form was called "draft field register and draft record-of-rights". It may be mentioned in this connection that although the Madras Survey and Boundaries Act required the map to be made final, it did not contain any provision to finally publish the field register. After effecting necessary corrections in the draft field register in accordance with the orders passed in appeal, if any, under section 11, the draft field register was not finally published. That explains why in the final khatian form the words "field register" have been omitted. Introduction of a combined form for the field register and the record-of-rights also led to the issue of a combined notice under section 6 (1) of the Madras Survey and Boundaries Act and in Form No. I of the Statutory Rules under the Madras Estates Land Act. The provision of the Act regarding finality of survey after its notification under section 13 presented considerable difficulty in inserting the subdivisions created during rent settlement stages in the village maps. The subdivisions created during record objection hearing stage could be accommodated because as a general practice survey was not declared final under section 13 until the records were ready for final publication. But once the records were finally published and the survey made final, the changes ordered during rent objection hearing stage could not be accommodated either in the map made final under section 13 of the Madras Survey and Boundaries Act or in the record-of-rights finally published under section 166(2) of the Madras Estates Land Act. A workable solution was found by preparing supplemental sheets in respect of only of the subdivisions created during rent objection hearing stage and as such subdivisions were not shown in the village map itself, they are of little practical value for the ryots of those subdivided plots. Similar is the case with respect to preparation of supplemental or "KA" khatas in respect of new khatas prepared during rent objection hearing stage which will be

explained in Chapter VI, paragraph 69. [These difficulties were sought to be removed by introduction of a uniform law for survey and settlement in the entire State of Orissa. But by some chance, they continued when such a law was enacted in the Orissa Survey and settlement Act, 1958 (Orissa Act 3 of 1959). Ultimately these defects were removed by an amendment to Orissa Survey and Settlement Act by the amending Act 7 of 1962]. It has been stated that above rule 3 of the "Rules under clause 2 (*b*)" was amended to the effect that the map prepared should also show such measurements as the Director of Land Records and Surveys may direct, and this amendment was issued in Government Order No. 2153-R., dated the 8th August 1941. The Revenue Commissioner in his capacity as Director of Land Records and surveys issued orders in his Memo. No. 1172 (3)-L.R.S., dated the 24th August 1941, to show measurements of a diagonal line across each quadrilateral. This was modified in Revenue Comminssioner's letter No. 864—L.R.S.-XXII-28/42, dated the 16th/17th June 1949, to the extent that when it was impossible to run a diagonal line in a quadrilateral this might be dispensed with, provided the corners of the quadrilaeral would be definitely fixed with reference to the sides and a diagonal line of the adjoining quadrilateral. When, however, this was not possible, two other points might be taken on the sides and the position of these sides as well as the length of the line joining these points should be indicated in the map.

(*iv*) The difficulty of adjusting the provisions of the Madras Survey and Boundaries Act and its rules to the new idea of introducing the Bhiar and Orissa system of survey in Ganjam seems to have also led to the famous Bodogoda Writ Case in which the survey and settlement procedure in Ganjam was declared illegal. In the Bodogoda Writ Case the High Court held that the survey of the estate was not justified by law and was done without jurisdiction for the following main reasons:—

(1) Non-appointment of Survey Officer under section 4(1) of the Madras Survey and Boundaries Act

(2) Adoption of combined notice in Form No. I as prescribed under Madras Survey Manual and Form No. I prescribed in rule 6 of the rules framed under Chapter XI of the Madras Estates Land Act.

(3) Modification of forms prescribed in Madras Survey Manual without orders of Government.

(4) Recovery of survey cost from the parties when Government ordered the survey operation, *suo motu* and the manner of apportionment of survey costs.

I will deal herewith the points 1 to 3 leaving point 4 to be dealt with in Chapter VIII relating to cost and its recoveries.

Government issued a combined noitfication under section 17 of the Madras Survey and Boundaries Act for survey of the Estates and under section 164 of the Madras Estates Land Act for preparation of record-of-rights therein. The general notice to be served in the village under section 6(1) of the Madras Survey and Boundaries Act and under rule 6 of the Statutory Rules under Chapter XI of the Madras Estates Land Act were also a combined notice. Government in their letter No. 909-R., dated the 8th March 1940, observed that the khatian form prepared during the Major Settlement Operation fulfilled the requirements of both the Survey Land Register and the record-of-rights contemplated under the Madras Survey and Boundaries Act, and the Madras Estates Land Act respectively. In pursuance of this decision, the form of the notice prescribed in Form No. I of the Madras Survey Manual, Volume III, for service under section 6(1) of the Madras Survey and Boundaries Act and that of the notice in Form No. I prescribed in rule 6 of the Statutory Rules under the Madras Estates Land Act meant for service before initiation of the survey and record-of-rights were suitably modified and a combined notice was prepared and served. The High Court held that the Settlement Officer had no power to vary the form of notice as they were statutory notices and services of a combined notice was not legal. There was also another defect in that the notices that were served were signed by the Settlement Officers as Colletetor appointed under the Madras Estates Land Act and not as a Survey Officer appointed under the Madras Survey and Boundaries Act and so the notice purported to have been issued under-section 6(1) of he Madras Survey and Boundaries Act was not a valid notice. The difficulty was that neither the Settlement Officer nor the Assistant Settlement Officers were vested with the powers of a Survey Officer under section 4 of the Madras Survey and Boundaries Act. This was not done because probably it was held then that under the statutory rule 1(3) under Chapter XI of the Statutory Rules framed under section 215 of the Madras Estates Land Act a Collector appointed under the Madras Estates Land Act was invested with all the powers exercisable by a Survey Officer under the Madras Survey and Boundaries Act. The High Court did not accept the view and held that when a Collector made a survey it could not be said to be a survey made by a Survey Officer appointed under the Survey and Boundaries Act. But although Survey Officers were no appointed, whether due to mistake or otherwise, still it was curious that the notice issued under section 9(2) of the Madras Survey, and Boundaries Act at the time of attestation of the record-of-rights by the Assistant Settlement Officer was signed by the Assistant Settlement Officer in his capacity as a Survey Officer. Subsequently all these irregulariti ties have been regularised by passing of the Validation Act and the Board of Revenue in their notification No. 1607, dated the 26th July 1956 have appointed the Settlement Officer, Charge Officer, Assistant Settlement Officers Kanungoes, Inspectors and Amins by designation to be Survey Officers under particular sections of the Madras Survey and Boundaries Act. But since then no survey has been conducted in the Major Settlement Operation and hence this power has not been exercised.

(*v*) The following procedure is prescribed for survey under the Madras Survey and Boundaries Act :

First of all, the Government or any officer or authority to whom the power may be delegated by Government, may, by notification, order a survey of any Government land. Government land is defined to mean any land not forming an "estate" land. Then the Government or any officer specially empowered in this behalf will appoint by notification under section 4 of the Act, any person either by name or by virtue of his office, to be a Survey Officer for conducting proceedings under the Act. When a survey is ordered under section5, the Survey Officer had to publish a general notification in the prescribed manner under section 6 of the Act inviting all persons interested in the land to attend either in person or by agent for the purpose of pointing out boundaries and supply all information in connection therewith. The Survey Officer is given power to determine and record both undisputed boundaries under section 9 and disputed boundaries under section 10. Appeal against his order under section 9 or 10 can be preferred to the prescribed officer under section 11 of the Act within 3 months from the date of service of notice under secition 9 or 10 and before the issue of notification under section 13. When the survey of the land has been completed in accordance with the orders passed under

section 9, 10 or 11, the Survey Officer has to notify this fact in the District Gazette and a copy of such notification shall be pasted in the village chaudi, if any, of the village to which the survey relates. After this notification, the record of the survey shall be conclusive proof that the boundaries determined and recorded therein have been correctly determined and recorded unless the survey so notified is modified by a decree of a Civil Court. Under section 14, a suit can be instituted within 3 years from the date of the notification under section 13 to set aside or modify the determination of the boundary by the Survey Officer. Section 17 of the Act applies to survey of "estates". Under this section, the Government or any officer to whom power may be delegated by Government, may, by notiffcation, direct survey of an estate or a portion of an estate either on application in writing of the proprietor of any person interested in the boundary or without such application whenever in the opinion of Government such survey is necessary—

(*i*) for the better of more convenient assessment or levy of irrigation cess,

(*ii*) for any other reasons to be recorded prior to issue of such notification.

The conduct of such survey and the proceedings of the Survey Officer shall be regulated according to the procedure laid down for survey of Government lands.

During the Major Settlement Operation in Ganjam, Government ordered *suo motu* for survey of the estates under sub-clause (*ii*) of clause (*b*) of section 17 and the reason given by Government for issue of this notification was to secure the ryots generally and the land-holders of the estates in the enjoyment as such of their legal rights. Such notifications were combined notifications for survey under section 17 of the Madras Survey and Boundaries Act and for record-of-rights under section 164 of the Madras Estates Land Act, 1908. (The Madras Survey and Boundaries Act has Since been repealed by the Orissa Survey and Settlement Act, 1958). For the survey of Government lands, i.e., Government poramboke lands acquired under the Land Acquisition Act and other lands in which Government had an interest and pre-settlement enfranchised and unenfranchised minor inam lands which were situated within the boundaries of villages directed to be taken up for survey and resurvey, the Settlement Officer, Ganjam-Koraput, was authorised to exercise the powers delegated under section 5 of the Madras Survey and Boundaries Act (Act VII of 1923).

13. *System of Cadastral Survey in Ganjam prior to Major Settlement Operation*—

(*i*) The following systems were in vogue:—

(*a*) Triangle,

(*b*) Diagonal and Offset,

(*c*) Khallikote and Athagada, and

(*d*) *Punganur*

(*a*) *Triangle System*—Mainly ryotwari areas of Ganjam were done under this system. It consists in taking measurements from one stone of the survey field to other stones in the same survey field for the purpose of dividing the survey field into so many triangles. Offsets of field corners are not taken and shown in the field measurement book. Village maps are prepared on traverse basis as usual. No village in the estate area was surveyed under this system.

(*b*) *Diagonal and Offset System*—Under this system the survey field is divided into smaller number of triangles and offsets of the bends and corners of the revenue fields (plots) are taken on 'G' lines run from one stone to another stone which are generally embedded only at the ends of 'G' lines and not at all bends and corners of the survey fields except where the survey field is a poramboke land, unlike the triangle system where stones are embedded at all bends and corners of the survey fields. Village maps are prepared on traverse basis as usual. 346 villages were surveyed under the diagonal-offset system in Bodokimedi, Aska, Seragada, Biridi, Jarada, Paralakimedi, Palur, Surangi, Huma Estates and Aska Malukdari.

(*c*) *Khallikote-Athagada System*—This is a compromise between the diagonal-offset and the plane-table so called as this system was first introduced in the survey of Khallikote and Athagada estates. Lines are run between theodolite stations and offsets of all field bends are taken on these lines. Each plot is shown on the village map unlike any other system such as triangle or diagonal and offset where only survey fields are shown on the village map. Detailed plotting is, however, not done in the field unlike plane-table system. As in case of other systems of survey in Madras the plotting is done at Head Office on the basis of data recorded during field enquiry. A partal sketch representing a rough map of the village in which measurements and offset numbers are recorded is prepared in the field. The village is divided into khandams corresponding to morabbas under the plane-table system and the measurements of all lines are noted in the partal sketch. All offset points are numbered and the 'G' Book which corresponds to field book in the plane-table system show the offset distance of each field corner on the 'G' lines run from one stone to another. Stones are embedded only at theodolite points and khandam stations. The partal sketch and 'G' books are permanently preserved and form the basis of plotting of the village map. Under this system not field measurement book as in other systms of Madras Survey is prepared. 323 villages of Khallikote, 254 village of Athagada and 165 villages of Dharakote, Jarada, Palur estates including 3 villages of Berhampur and Chatrapur taluks were surveyed under this system of survey.

(*d*) *Punganur System*—Only 94 villages of Chikiti zamindary were surveyed under this system. Thiss ystem is so called as it was first introduced in the survey of Punganur Estate in Madras in 1914—1916. As a principle, a single diagonal line is run across each survey field and all field bends are offsetted on this line. The survey field i tself is plotted in the village map by taking offsets of the corners of the survey field on a bigger 'G' line run from one theodolite station of the village to another theodolite station on the opposite side of the village. Thus, there is material for checking the accuracy of the survey of the field boundaries from two independent data . In other respects, this resembles the diagonal and offset system. This appears to be the most accurate type of survey as yet devised but is costly.

14. *Difference between the Bihar and Orissa System and the Madras System*—(*i*) In Bihar and Orissa System, plane-tables are used whereas in the Madras System, plane-tables are not generally used as most of the work is done at headquarters instead of at field. The Bihar and Orissa System definitely discourages doing of any portion of

survey work at any place other than the spot. As a matter of fact, preparation of field books and plotting them subsequently at the dera of the Amin is prohibited in the Bihar and Orissa System. The idea of preparing a map in the office from the data collected in the field is basically wrong simply because this leads to inaccuracy as effective check of work of the surveyor is not always possible.

(*ii*) Under the Madras System, a survey field which consists of one or more plots or revenue fields (a revenue field, if occupied, is a distinct piece of land of one description of soil and held on one tenure by one man or jointly by more and if unoccupied, it is either poramboke or waste) is the unit of survey and is treated as final after notification of completion of survey under section 13 of the Madras Survey and Boundaries Act, whereas under the Bihar and Orissa System, the village is a similar unit of survey. In the village maps which are generally prepared 16″=1 mile scale (there are also village maps prepared in 8″=1 mile or 40″=1 mile scale and sometimes two or more contiguous villages appear in one sheet), the boundaries of only survey fields which may not be strictly according to scale and position are shown whereas in the Bihar and Orissa map, all plots are shown not only in their relative position but also exactly according to scale. The maps are also generally in 16″=1 mile scale but in congested villages, maps of higher scale, i.e., 32″=1 mile or 64″=1 mile scale are also prepared. Subdivisions of plots during subsequent stages of settlement operation or during maintenance operation are shown in the village map itself whereas in the Madras System, subdivisions within the survey field are not shown in the village map but in the field measurement book which is prepared separately for each survey field.

(*iii*) Plot numbering in the two systems is also different. Plots within the survey field in Madras system are generally denoted by the subdivision numbers of the survey fields to which they relate, such as 5/2, 3/1, etc., the numerator representing the survey number and the denominator the subdivision number within the survey field. Further subdivisions are represented by compound fractional numbers. Thus, if a plot, say, 5/1 is subdivided into 2 plots, the portions are given numbers 5/1/A and 5/1/B. If subsequently plot No. 5/1/A is again subdivided, the portions are numbered 5 1/A/1 and 5/1/A/2 and so on. In the Bihar and Orissa system of survey, when a particular plot, say, 5 is subdivided into 2 plots and the village has got, say, 500 plots, one of the subdivided plots is given the number 5 and the other is given the number 5/501. If plot No. 5/501 is again subdivided into 2 plots one is given the original number, namely, 5/501 and the other portion is given the number 5/502, the denominator always representing the last number of the plot of the village. In the major settlement operations, a *via media* was found in numbering the fields. If a plot, say, 5 was subdivided, it was given subdivision numbers 5/1 ,5/2, 5/3, and so on, the numerator representing the original plot number and the denominator representing the last number into which the plot has been subdivided. If 5/2 was subsequently subdivided into two plots, the portions were numbered, 5/2 and 5/4, if 5/3 was the last number of the subdivided plot and so on.

(*iv*) Under the Madras system, stones are embedded at all bends and corners of survey fields whereas under the Bihar and Orissa System, stones are embedded only at village trijunctions.

I have already shown in paras. 7 and 8 that during the major settlement operation, a switch over to the Bihar and Orissa system was decided in accordance with the recommendations of the then Revenue Commissioner, Mr. J.R. Dain, as the Madras system was very costly and time-taking. I have also said how adjustments had to be made in the Bihar and Orissa system in order to conform to the statutory requirements of the Madras Survey and Boundaries Act and the difficulties faced during the Major Settlement Operation in accommodating the statutory requirements under the Bihar and Orissa system of mapping and recording which have ultimately been removed by an amendment to the Orissa Survey and Settlement Act, 1958 in amending Act 7 of 1962.

15. *Preparation of maps*—(*i*) *In unsurveyed villages*—Out of 2,115 villages taken up in the Major Settlement Operation, 933 villages including 455 inam villages were completely unsurveyed. The number of such villages in different estates may be seen from the statement given at sub-para. (*iv*). In these villages, the usual method of plane-table survey was followed subject to modifications evolved to suit the statutory requirements, as explained in paragraph 13. Out of 933 villages theodolite traverse was done in 411 villages of different estates as shown below by the Deputy Director of Surveys, Bihar:—

| | | |
|---|---|---|
| 1. Sanakhimedi Estate | .. | 104 villages |
| 2. Kurla (Malukdari) | .. | 1 village |
| 3. Devabhumi | .. | 10 villages |
| 4. Aska (Malukdari) | .. | 14 villages |
| 5. Biridi | .. | 1 village |
| 6. Palur | .. | 16 villages |
| 7. Humma | .. | 2 villages |
| 8. Surangi | .. | 108 villages |
| 9. Chikiti | .. | 46 villages |
| 10. Jarada | .. | 14 villages |
| 11. Bodagada | .. | 95 villages |

The total area traversed by theodolite by the Deputy Director of Surveys, Bihar, was 274 square miles and the cost on this account was Rs. 41,017. In respect of the remaining 522 villages plane-table traverse was done. Stones of size 3′x9″x9″ were embedded at all trijunctions of villages and at all theodolite stations on the boundaries of the zamindary villages where they adjoined ryotwari or pre-settlement inam villages or any other zamindary or unsurveyed tract, and stones of the size 2′ x6″x6″ were embedded at all the starting and closing points of quadrilateral lines where they did not fall inside cultivated fields. The stones were serially numbered from the north-western corner in the stone khaka and they were also noted serially in the stone register.

Stones after being embedded were made over to the Village Officers. These 2 papers, i. e., stone khaka and stone register have been treated as permanently preservable records for facilitating future survey. In North Orissa, a thanawar stone mujumuli was maintained to show the trijunction and special stones embedded in all villages but in view of the stone register and the stone khaka it was not thought necessary to maintain a stone mujumuli in Ganjam. Copies of the stone khaka and stone register were not, however prepared for supply to the village officers to enable them to maintain the stones properly. The original stone khakas have been handed over to the Collector at the time of consignment of the records. The quality of the paper used is so inferior that they would hardly withstand constant handling. The lengths of morabba lines and the corner lines of the morabbas have been printed on the final maps. Subdivisions of plots created during rent objection stage have not been shown in the village map as the plot boundaries are considered final after notification of completion of survey under section 13 of the Madras Survey and Boundaries Act. For such plots supplemental sheets have been prepared. After final publication and republication, the village maps and the supplemental sheets, as the case may be, were reproduced in the Bihar Survey Office according to the scale approved by the Commissioner.

(*ii*) *In villages in which survey was previously done*—These are called revision survey villages. In the notifications issued from time to time, Government had ordered survey of unsurveyed villages and resurvey of surveyed villages, except in respect of 329 minor settlement villages where only rent settlement under section 168-A was ordered. There were 853 such revision survey villages in different estates as shown in the statement at sub-para. (*iv*) . In these villages fresh traverse was not done as the villages had already been traversed by theodolite. Stone embedding was also not done as stones had been embedded at the corners of the survey fields. In the major settlement operations, work started from the field bujharat stage with the help of the old records, i.e., Survey Land Register, Village Plan and Field Measurement Books. Subdivisions created during the preparation of record-of-rights, i.e., during the course of field bujharat, attestation and objection hearing under section 166(1) of the Madras Estates Land Act were incorporated in the village map itself within the survey fields shown in the previous map. But the side measurements of all the plots created during preparation of record-of-rights were shown in the map itself. Final maps were prepared with the following certificate of the Settlement Officer —"New subdivisions created during the preparation of record-of-rights have been incorporated in the map with measurements." The subsequent stages for preparation of the map were as in the case of maps prepared for unsurveyed villages.

(*iii*) *In villages in which either final publication or republication had been done*—Out of 329 such villages, work in 3 villages, namely, Santabandha, Khasua and Jhadabandha has not been taken up. In 3 more villages namely, Sanabaragan, Ambajharnuapalli and Bada Agula work was suspended as the original record-of-rights was lost. Out of the remaining 323 villages, 79 lying in Bodokhimedi, Jarada and Surangi estates were surveyed under the Field Measurement Book System (the three systems of survey, namely, triangle, diagonal and offsets and Punganur are together called Field Measurement Book system as in all these cases, field measurement book is the essential element) and 244 in Khallikote and Athagada system. In these groups of villages neither resurvey nor preparation of record-of-rights were ordered by Government. Only rent settlement under section 168-A of the Madras Estates Land Act was ordered. The maps were brought up-to-date by creating subdivisions during rent enquiry as well as during the rent objection hearing stages. In the F. M. book system of maps, subdivisions created during the minor as well as during the major settlement operations were shown in the field measurement books and not in the village maps. In the Khallikote and Athagada system of maps, subdivisions crea ed during the minor settlement operations had already been shown on the village map. Those created during the major settlement operation were also shown in the village map in red ink with side measurements noted to distinguish them from the subdivisions created during the minor settlement operations in which no side measurements were given. A fresh 'G' book was prepared during the minor settlement operation for subdivisions then created . But during the major settlement operation, no such 'G' books were prepared as measurements were noted on the map itself. In all these 323 villages, subdivisions created during the minor settlement operations as well as during the major settlement operation were shown only on one copy of the field measurement book or the village map, as the case may be, and no reproduced copies containing the subdivisions were prepared. The old map containing the subdivisions had become brittle. Moreover without reproduction of the map containing all the changes effected during the minor settlement operation as well as during the major settlement operation, the map is not of any use to the ryots as they cannot have benefit of getting copies. To avoid this difficulty and also to keep uniformity with the other village maps prepared during major settlement operation Board of Revenue ordered to prepare fresh copies of maps with all the subdivisions effected during the minor settlement as well as during the major settlement operations and send them to the Deputy Director of Surveys for reproduction. As good Draftsmen in adequate number are not available in Berhampur Settlement Office, it has not been possible to undertake such a vast work at such a huge cost. Moreover under the programme of settlement approved by Government, all these villages will be taken up for revisional operation in the year 1966-67 and at that time fresh maps will be prepared under the Bihar and Orissa System under the Orissa Survey and Settlement Act. The Director of Land Records and Surveys in his last inspection of the Settlement Office in September 1962 observed that it was not necessary to spend so much money and time specially over this work as qualified staff were not available even for implementing the ryotwari settlement programme.

(*iv*) *Progress*—The following figures will show the progress of survey in different blocks of Ganjam district :—

| | Revision | Minor | Original |
|---|---|---|---|
| BLOCK A | | | |
| Dharakote .. .. | 110 | 11 | Nil |
| Athagada .. .. | 74 | Nil | Nil |
| Total .. .. | 184 | 11 | Nil |

| BLOCK B | Revision | Minor | Original |
|---|---|---|---|
| Athagada .. | 64 | 76 | Nil |
| Badakhimedi .. | 120 | 24 | Nil |
| Khallikote .. | 166 | 126 | Nil |
| Chikiti .. | 93 | Nil | Nil |
| Total .. | 443 | 226 | Nil |

| BLOCK C | | | |
|---|---|---|---|
| Dharakote .. | Nil | 37 | 7 |
| Aska Malukdari .. | 1 | 1 | 26 |
| Sanakhimedi .. | .. | .. | 160 |
| Sheragada .. | 30 | .. | .. |
| Bodagada .. | .. | .. | 129 |
| Athagada .. | 7 | .. | 1 |
| Khallikote .. | 14 | .. | .. |
| Badakhimedi .. | .. | .. | 34 |
| Chikiti .. | 1 | .. | 30 |
| Surangi .. | .. | 19 | 92 |
| Jarada .. | 24 | 29 | .. |
| Palur .. | 2 | .. | 18 |
| Biridi .. | 67 | .. | 4 |
| Jharadapadaro .. | .. | .. | .. |
| Humma .. | .. | 6 | .. |
| Karabalua .. | .. | .. | 1 |
| Total .. | 146 | 92 | 502 |

| BLOCK D | | | |
|---|---|---|---|
| Dharakote .. | .. | .. | 42 |
| Aska Malukdari .. | .. | .. | 2 |
| Sanakhimedi .. | .. | .. | 21 |
| Sheragada .. | .. | .. | 9 |
| Badagada .. | .. | .. | 37 |
| Athagada .. | 33 | .. | 37 |
| Khallikote .. | 17 | .. | 24 |
| Badakhimedi .. | .. | .. | 50 |
| Chikiti .. | .. | .. | 27 |
| Surangi .. | .. | .. | 18 |
| Jarada .. | 3 | .. | 3 |
| Palur .. | 1 | .. | 4 |
| Biridi .. | .. | .. | 12 |
| Humma .. | .. | .. | 2 |
| Parlakimedi .. | 23 | .. | 37 |
| Berhampur Taluk .. | 2 | .. | 19 |
| Chatrapur Taluk .. | 1 | .. | 37 |
| Ghumsur Taluk .. | .. | .. | 50 |
| Total .. | 80 | .. | 431 |

GRAND TOTAL— .. 2,115 Villages

[44 B. of R.—6]

16. *Boundary disputes*—Under the Madras Survey and Boundaries Act when the completion of survey is notified under section 13 of the Act, the village boundary is final unless it is modified by an order of the Civil Court. So in cases of revisional villages such cases of boundary disputes did not arise. There was no boundary dispute between Ganjam and other districts or between Orissa and other States. There were, however, some disputes between different villages in an estate in the case of originally surveyed villages and some disputes between different estates. There were 71 boundary dispute cases between different villages. Out of these, 36 cases went up in appeal and disposed of on merits. There were six inter-estate boundary disputes, out of which the following boundary disputes need special mention :—

(*a*) *Palur and Biridi*—During the survey operations of Biridi an Palur estates, the land-holders claimed to include certain bits of Nandighar hills in the adjoining villages in each of these estates. The boundary between these estates was the subject of a Civil Court decree which was upheld by the Additional Subordinate Judge, Berhampur. According to the Civil Court decree, the demarcation line of Mr. Forbes indicated by masonary pillars was the boundary between the two estates of Biridi and Palur. The contesting parties wanted to get the demarcation line of Mr. Forbes relaid through the Settlement Department by raising the question in a boundary dispute. This question went up in appeal before the then Settlement Officer. It was held by the Settlement Officer that the direction of the Civil Court was not for demarcating the boundary between the villages of different estates but between the two estates of Palur and Biridi which had been contesting for a long time about the proper identification of the boundary fixed by Mr. Forbes in 1862 and that Government direction was to survey all kinds of villages in the estates taken up for the operations and that there had been no direction to take up the survey of estate boundaries and as such it was not necessary to take up the survey of estate boundaries unless the estate boundaries also happened to be the village boundaries. It was left open for the contesting parties to get the demarcating line of Mr. Forbes relaid through the Civil Court.

(*b*) The Inamdar of Kontapoda Motho Makundapur on the strength of the Civil Court decree claimed for a revision of the boundary between Haripur Burudi belonging to Biridi estate and Kontapoda Matho Makundapur belonging to Palur estate in a petition filed by him in 1953. The Civil Court decree was passed in 1923. The initial survey of Haripur Burudi in Biridi estate was taken up in 1913 by the Madras Survey Party. The record-of-rights of this village were finally republished under section 170 (3) of the Madras Estates Land Act on the 11th August 1952. As such, the boundary of this village was made final long before 1952 and the boundary of this village could not be corrected as it was made final and the Civil Court decree remained inoperative having been barred by limitation. This is now the subject matter of a revision petition before the Board of Revenue.

17. *Printing of Maps*—(*i*) Generally 4 to 5 copies of not-final maps were indented for use. This indent was, however, increased in cases where either the land-holder or any of the ryots sent in requisition for such maps. Generally Deputy Director of Surveys, Bihar, sent back the original map with the not-final maps. Tow copies were issued to the attestation camps for use of the Attestation Munsarims and Surveyor Munsarims. A third copy was given to the Collector with 9 (2) notices. The two maps used in the Attestation Camps were also sent to the Objection Camps. The subdivisions created during attestation and objection stages under section 166 (1) were incorporated in the original map and sent to the Deputy Director of Surveys, Bihar, for final reproduction. The Deputy Director of Surveys, Bihar, retained the original map and supplied copies of final maps as per the following scale ordered by the Revenue Commissioner :—

| | | |
|---|---|---|
| Collector | .. | 4 Copies |
| Reserve in the office of the Revenue Commissioner | .. | 5 Copies |
| Karanam | .. | 1 Copy |
| Proprietor | .. | As many copies as are required by him (to be purchased). |
| For sale to the public in the Taluk Office | .. | 2 per cent of the number of plots in the sheet subject to the minimum of 10 copies of each sheet of each village. |

No free copy was given to the land-holders. In case of supplemental sheets only 10 copies were indented for. As per orders of the Government the price of both final and not-final maps was uniformly fixed at Re. 0-12-0 in 1938, Rs. 1-2-0 in 1949, Re.1 in 1952 and Rs. 1-4-0 in 1953. The following figures will show the cost of printing of maps by the Deputy Director of Surveys, Bihar year by year.

| Year | Details of Printing | Cost |
|---|---|---|
| (1) | (2) | (3) |
| | | Rs. |
| 1938-39 .. | Nil .. | Nil |
| 1939-40 .. | Nil .. | Nil |
| 1940-41 .. | Nil .. | Nil |
| 1941-42 .. | Blue prints and maps for attestation and miscellaneous reproduction of maps for sale and for administration. | 3,512 |
| | | 10,871 |

| (1) | (2) | (3) |
|---|---|---|
| | | Rs. |
| 1942-43 .. | Reproduction of maps for sale and administration. .. | 12,903 |
| 1943-44 .. | Nil .. | Nil |
| 1944-45 .. | Nil .. | Nil |
| 1945-46 .. | Nil .. | Nil |
| 1946-47 .. | Nil .. | Nil |
| 1947-48 .. | Nil .. | Nil |
| 1948-49 .. | Reproduction of maps and blue prints for attestation. Reproduction of maps for sale and administration. | 334<br>6,765 |
| 1949-50 .. | Reproduction of maps and blue prints for attestation. .. | 1,406 |
| | Reproduction of maps for sale and administration .. | 7,525 |
| 1950-51 .. | Reproduction of final maps .. | 2,911 |
| 1951-52 .. | Reproduction of final maps .. | 5,603 |
| 1952-53 .. | Indirect charges (reproduction of maps and supplemental sheets) .. | 3,119 |
| 1953-54 .. | Nil .. | Nil |
| 1954-55 .. | Nil .. | Nil |
| 1955-56 .. | Nil .. | Nil |
| 1956-57 .. | Nil .. | Nil |
| 1957-58 .. | Nil .. | Nil |

(*ii*) *Thana numbering and thana maps*—Under the Bihar and Orissa system thana maps have to be prepared in respect of the villages within a thana generally in 1″=1 mile scale and a jurisdiction list of villages within a thana otherwise known as thana list which serves as an index to the thana map is also prepared during the course of major settlement operation. This was not the practice in Madras System of Survey. During the course of survey under the Madras System "Estatewar" mujumulies were prepared in 1″=1 mile scale in respect of the villages finished from survey. The villages were numbered serially within each estate and the ryotwari villages within a taluk were given separate set of continuous serial. The village maps were given map numbers according to the serial number of the village within the estate or within the ryotwari area of a taluk, as the case may be. Following the Madras System "Estate Mujumulies" were prepared in this settlement and the serial numbers of the villages allotted to each village within an estate previously was not changed except in respect of the estate in which fresh map number had to be allotted in this settlement as the villages were unsurveyed. No Estate List to serve as an index to the Estate map was prepared on the pattern of the thana list of the North Orissa. After abolition of the Estates the Estate Mujumuli prepared in this settlement was not of much use. It is now proposed to prepare thana maps and thana lists and also tehsil maps and tehsil lists on the Bihar and Orissa pattern and the work will be taken up after the list of villages in the ryotwari area now taken up for survey and settlement operation is finalised.

(*iii*) *Drawing Section work at different stages of settlement operation*—In case of originally surveyed villages as soon as the map was received from the camp the Drawing Section scrutinised whether plot numbers had been linked up in the camp. Then the work of boundary milan and margin milan was taken up, finalised, and then inked up in black. Later the map and khasara were compared to detect any omission. At the same time, necessary information regarding conventional signs were gathered. The conventional signs were prepared by the Draftsman. After this the map was made over to the Area Section for extracting areas as per rule and then the map with the records was made over to the Khasara Section. After the map was received from the attestation camp, the original map was corrected according to the sketches as per the B. C. R. and then a plot index was prepared and made over to the Recess Section. When the maps were received from the Object Camps under section 166(1), subdivisions were checked and inked up in crimson red ink in the original map. Then the miscellaneous items of work such as heading printing, noting of adjoining villages, references and list of notable places, etc., were done on the map after which it was sent to the Deputy Director of Surveys, Bihar, for final printing and reproduction. After disposal of objections under section 169(1) the subdivisions were not incorporated in the original map, but a separate sheet called the supplemental sheet containing the subdivisions was prepared and sent to the Deputy Director of Surveys for reproduction.

## CHAPTER III

### LAW

18. *Introductory*—(*i*) As will appear from the notification issued by Government, the intention of Government in ordering preparation of record -of-rights in the Zamindari areas of Ganjam was to secure the ryots generally in the enjoyment as such of their legal rights. Generally speaking, the rights of the ryots needed protection. In a record-of-rights operation, the rights are neither created nor taken out. Whatever rights are there on the date of preparation of record-of-rights are only recorded. Various kinds of rights exist in land but it was not within the scope of this Major Settlement Operation to record all such rights. The limitation was due to the law under which the record-of-rights operation was carried on. It was carried on in accordance with the provisions of the Madras Estates Land Act the Statutory Rules framed thereunder. It is necessary to analyse some of the specific provisions of the law in so far as they are relevant for our purpose to appreciate the manner of recording followed in the estate areas.

(*ii*) The Madras Estates Land Act came in to force on the 1st July 1908 and it repealed the Madras Act VIII of 1865 and the object was to remove the imperfections of the previous Act and to declare the substantive and relative rights of land holders and their tenants. Some substantive and far-reaching changes were made in the Act by an amendment which came into force on the 30th June 1934 and the Act as amended in 1934 was the law which was applicable to Ganjam on the date of its separation from Madras as stated in paragraph 7 of Chapter I. This Act, as its title indicates, was not applicable to the entire district of Ganjam, but only to the estate areas. This means that the Act was not in force in the ryotwari and agency areas of Ganjam, unlike the Orissa Tenancy Act which is applicable to the Khasmahal as well as to Zamindary areas of North Orissa. In the Agency area, there was no Tenancy Act but in the ryotwari areas, the incidence of the rights of the ryots were governed by the Board's Standing Order as stated in paragraph 6(*v*) of the Chapter I. There was, therefore, no law for preparation of record-of-rights in the ryotwary areas of Ganjam and the record that was prepared during settlement was an executive document and was known as the diaglot. Even where record-of-rights operations were conducted under the provisions of the Madras Estates Land Act in some of the estate areas, the record-of-rights was prepared plotwar which corresponds to khasara of the Bihar and Orissa system and no holdingwar khatian was prepared. The changes introduced during the Major Settlement operation in the manner of preparation of record-of-rights will be dealt with in Chapters IV and V. But a complete switch over to the Bihar and Orissa pattern was not possible owing to the statutory provisions of the Madras Estates Land Act and as in case of survey, some adjustments in the Bihar and Orissa system had to be made to conform to the statutory requirements. Such adjustments will be more fully described in Chapter V.

19. *Difference between the provision of the Madras Estates Land Act and the Orissa Tenancy Act*—It is necessary to indicate here broadly the difference between the provisions of the Madras Estates Land Act and those of the Orissa Tenancy Act (the preparation of record-of-rights and settlement of rent were done under the provisions of the Orissa Tenancy Act in Cuttack, Puri and Balasore districts excluding the ex-state areas which are the northern districts of Orissa) to appreciate the manner of preparation of record-of-rights that was ultimately followed in Ganajm.

(*i*) *Tenancies*—(*a*) Tenancy implies a divorce between ownership and cultivation and is primarily the result of the inability or the unwillingness of the owner to undertake personal cultivation. The inability may arise on account of the owner being a woman, a minor or a person suffering from physical or mental disability, or on account of the owner residing in too distant a place to make personal cultivation possible or on account of his having an alternative living which he cannot forego. Unwillingness may be due to sheer laziness or to the difficulty of cultivating holdings which are either too large or too small and fragmented. The possibility of getting high rents is also a circumstance which encourages tenancy. This being the origin of the tenancy, it cannot certainly be said that the nature of the tenancies or the rights of the tenants in reality differed largely from area to area. While defining and codifying rights of the tenants which it seeks to protect any stisfactory agrarian code must take into consideration the rights of various classes of tenants existing on the land. In that respect, the Orissa Tenancy Act, 1913, which follwed closely the provisions of the Bengal Tanancy Act, 1885, was a great improvement on the Madras Estates Land Act, 1908. The Orissa Tenancy Act recognised and defined four classes of tenants, namely, (*a*) tenure-holders including under-tenure-holders, (*b*) ryots, (*c*) under-ryots, i.e., tenants holding whether immediately or mediately under ryots (the word "mediately" presupposes all calsses of intermediaries between the ryot and the actual cultivating tenant) and (*d*) Chandandars, whereas the Madras Estates Land Act, 1908 recognised and recorded the rights of only class of tenants, namely, ryots. It only governed the relation between the land-holder (corresponding to proprietor of the Orissa Tenancy Act) and the ryot (which corresponds to occupancy ryot of the Orissa Tenancy Act). There were niether tenure-holders between the proprietor and the ryot nor under-ryots, i.e., tenants cultivating under the ryots. Only the class of tenure-holders, namely, irresumable darmila whole inam villages came under the definition of "estate" in section 3(2) (*e*) of the Madras Estates Land Act and the holders of such inams were recorded as sub-land-holders under the main land-holder. It is not that there were no tenure-holders (intermediaries between the ryot and the proprietor) or under-ryots (i.e., tenants under the ryots) in the areas covered by the Madras Estates Land Act, but that the Madras Estates Land Act did not define and protect the rights of such persons. They were left to be governed by contract and section 19 of the Madras Estates Land Act expressly declared that the provisions of the Act would not apply to the relation between the ryots and their tenants and the rights of any other owners of the land. The above difference between the Madras Estates Land Act and the Orissa Tenancy Act is also apparent from the absence of any definition in the Madras Estates Land Act of the words "landlord" and "tenant" which definitions occur not only in the Orissa Tenancy Act but in almost all other tenancy laws of India and also from the altered definition of rent. This explains why no khewat (record of proprietory or other rent-receiving interest) was prepared for tenure-holders and why no sikimi khata (record of holdings of under-ryots) was prepared during the major settlement operations in Ganjam as in Orissa Settlement. The absence of the provisions regarding recording of rights of tenure-holders in the Madras Estates Land Act did not present any serious difficulty in Ganjam as there were not many intermediaries in the Zamindaries of Ganjam as in North Orissa Zamindaries, because the Zamindars here took active interest in the management of their estates and the "landlord was a real landlord", as observed by Mr. Dain. But if, as under the Orissa Tenancy Act, a tenant were presumed to be a tenure-holder if the area held by him exceeds 33 acres, a few more tenure-holders' rights would certainly have been recorded

Government, however, ordered in their letter No. 553—S-13/51, dated the 3rd/4th April 1952, that the rights of tenure-holders, if there were any, might be recorded in the remarks column of the khewat. But prior to this a somewhat extraordinary decision was given in Revision Petition No. 23 of 1944, dated the 1st April 1948 by Mr. Samuel, the then Revenue Commissioner of Orissa in his capacity as Board of Revenue in the famous Radhamohanpur case in which the rent-receiving interest of one Ramesh Chandra Samanto was recorded in the remarks column of the Khewat of the land-holders (vide paragraph 31 of Chapter IV). But no order was received for recording the rights of the under-ryots which included Bhagchasis. In fact, the proposal of recording under-ryots in the record-of-rights was once discountenanced by Government as being illegal. Even the Orissa Tenants' Protection Act (Act 3 of 1948) and the Orissa Tenants' Relief Act (Act 5 of 1955) which were passed in the years 1949 and 1954, respectively with a view to giving temporary relief to the Bhagchasis or share-croppers (this included the Bhagchasis of the ryots as well as the tenants of private lands of the land-holders) against eviction and rack-renting had no tangible effect in Ganjam, and had absolutely no effect on the record-of-rights operation as the occupation of the Bhagchasis was not recorded anywhere in the record-of-rights. This serious lacuna in the law continued throughout the major settlement period and even after repeal of the Madras Estates Land Act by the Orissa Estates Abolition Act (Act I of 1952), as the proceedings pending on the date of vesting had to be continued under the old provisions of the Madras Estates Land Act under section 49 of the Orissa Estates Abolition Act. This has since been removed by the passing of the Orissa Survey and Settlement Act, 1958, under which the rights of all classes of tenants can be recorded.

(*b*) Another significant difference between the two Acts is in the incidence of rights of the most important class of tenants called as "ryots". Under the Orissa Tenancy Act, there are three classes of ryots, namely, (1) occupancy ryots, (2) non-occupancy ryots and (3) ryots holding a fixed rates, and the incidence of right of each class of ryots has been defined in the Orissa Tenancy Act. A non-occupancy ryot gets occupancy right in the lands held by him as such by continuous occupation for 12 years after which he becomes a settled ryot of the village and settled ryot of the village has right of occupancy in all lands for the time bieng held by him as a ryot in that village. Thus, unless a ryot is already a settled ryot of the village, he does not immediately get occupancy right. But under the Madras Estates Land Act any person who is admitted by the land-holder as a ryot, immediately acquires permanent right of occupancy in his holding. He need not have to wait for any length of time to acquire this valuable right. (A person can also acquire the status of a ryot by adverse possession of ryoti land for a continuous period of 12 years unless in the meantime, the land-holder institutes a suit in the Civil Court for his ejectment and this suit must be instituted within 12 years from the date of commencement of the occupation or if the land-holder has received or recovered any payment under section 163 as rent or damages for his unauthorised occupation, then within 2 years from the date of receipt or recovery of the payment). So under the Madras Estates Land Act, there is only one class of ryot, namely, occupancy ryot. [The Madras Estates Land Act prior to its Amendment in 1934, however, recognised the existence of non-occupancy ryots who were the tenants of lands called " old waste ". After the Amendment in 1934, the distinction between " old waste " and " ordinary waste " was removed and so all classes of ryots became occupancy ryots only. Even after the amendment, there are certain classes of tenants who can be appropriately described as non-occupancy ryots. For example, if the land-holder has reclaimed any land by his own servants or by hired labour, he may, under section 6(4) of the Act, which is similar to proviso (*ii*) of section 232 of the Orissa Tenancy Act, prevent any person from acquiring a permanent right of occupancy in respect of the said land during a period of 30 years from the date of the first cultivation or reclamation. Similarly, under section 6(2) the land-holder can enter into contract for the temporary cultivation with agricultural crops on land reserved *bona fide* by him for raising a garden or tope or forest and the person occupying such lands cannot have occupancy right. In such cases, the tenants are tenants-at-will and their relationship is governed by contract. The Madras Estates Land Act does not codify or protect the rights of such tenants].

(*c*) Both under the Madras Estates Land Act and the Orissa Tenancy Act, occupancy right does not accrue on communal lands. The type of communal lands over which occupancy right does not accrue under the Orissa Tenancy Act is as given in section 55(*c*), " lands recorded or demarcated as belonging to the Government or to any Local Authority which is used for any public work, such as a road, canal or embankment, or is required for the repair or maintenance of the same, while such land continues to be so used or required ". In Madras, the communal lands go by the generic term of " poramboke ". The bar on accrual of occupancy right over such lands is apparent from the difinition of " ryoti land ". Under section 6, occupancy right will accrue only on ryoti lands. The definition of " ryoti land " is any cultivable land in an estate excluding (*a*) private land, (*b*) communal land or poramboke and (*c*) service land or jagir. The communal lands which have been described in clauses (*a*) and (*b*) of sub-section 16 of section 3 are —

(*a*) beds and bunds of tanks and of supply, drainage, surplus or irrigation channels ; and

(*b*) threshing floor, cattle stands, village-sites, and other lands situated in any estate which are set apart for the common use of the villagers.

Thus, we find that village-sites in Ganjam come under the category of communal lands whereas under the Orissa Tenancy Act area, the homesteads within village-sites are like any other ryoti land over which the tenants have got occupancy rights. That is why under the Orissa Tenancy Act area the village-sites are surveyed in detail and the homesteads are included within the holdings of the tenants and are assessed to rent. But in the Madras area, as village-site is not ryoti land, occupation within the village-site cannot be assessed to rent, as " rent " is paid by a " Ryot " to a " land-holder " and a " ryot " is who holds " ryoti land " which does not include village-site. In the Major Settlement Operation in Ganjam, the village-site within a village has been surveyed as one plot and has been kept in the poramboke khata which corresponds to sarbasadharana khata of North Orissa Settlement. It may be stated in this connection that only village-sites and not all homesteads are free of assessment. If a ryot has his homestead within his ryoti land, it is not free of assessment. The same principle is also more or less followed in the ryotwari areas of Ganjam where under the Board's Standing Order 21 (4), occupation within the village-sites up to 25 per cent is free of assessment.

(*d*) Although settlement is mainly concerned with possession, still the aspect of the title to the land is not completely ignored. Of course all possessions are recorded but khatians are not given to those who do not hold any title. Possessions, if not ripened into title by adverse possession, are recorded in the remarks column.

Even possessions over communal lands are recorded in the remarks column as encroachment. The important difference between the Orissa Tenancy Act and the Madras Estates Land Act with regard to recording encroachments over waste lands is that the person encroaching upon ryoti land for a continuous period of 12 years automatically becomes a ryot under the Madras Estates Land Act unless in the meantime the land-holder institutes a suit for his eviction, whereas under section 61 of the Orissa Tenancy Act, a ryot who unauthorisedly occupies waste land for a continuous period of four years, the consent of the land-holder is deemed to have been given to the occupation unless in the meantime he makes an application to the Collector for his ejectment. Thus, in the major settlement operations a person who had occupied ryoti land (it also included cultivable waste land within its definition) for 12 years by the date of the record-of-rights operation, was recorded as a ryot and in the rent column the word "jamadharjya jogya" meaning—liable to assessment—was noted as he was not paying any rent. Occupation of lands for less than 12 years was recorded in the remarks column of the abada jogya anabadi khata against the plot concerned.

(*e*) The provisions regarding character of private lands in both the Acts are more or less similar. The legal incidents which appertain to private lands in an estate essentially differ from those attached to ryoti lands. Private lands are the lands over which the land-holder or the proprietor has got absolute unrestricted dominion. He can deal with it in any manner he likes, enter into any kind of contract he chooses or create in it any form of tenure he pleases. Section 19 of the Madras Estates Land Act prohibits regulation of relation between the land holder and a tenant of his private land except to the extent provided under section 134 for realisation of rent and under section 158 for eviction of the tenant. Section 55 of the Orissa Tenancy Act bars acquisition of right in proprietor's private land. This is also the case in the Madras Estates Land Act as occupancy right can accrue only on ryoti land and private lands are excluded from the definition of ryoti land. Both the Acts, however, recognise the right of the land-holder or the proprietor to convert his private land into ryoti land by his own volition. [This right has, however, been curtailed by the Orissa Communal Forests and Private Lands (Prohibition of Alienation) Act, 1948 (Act I of 1948), which has prohibited any lease or alienation or converting into ryoti land any communal, forest or private land or creating occupancy rights therein without the previous sanction of the Collector —this Act was made effective from 1st April 1946 in order to prevent large scale leasing and alienation of such lands on receipt of very high premium by the zamindars with a view to getting as much money as possible on the eve of the Zamindary abolition.] But the reverse is not the case. Although the land-holder is at liberty to convert the private land into ryoti but a ryoti land cannot be converted into a private land, because of the very definition of " private land " given in both the Acts. The principle of merger of occupancy right in the proprietary right is the same in both the Acts. Under section 8 of the Madras Estates Land Act which is analogous to section 26 of the Orissa Tenancy Act, when occupancy right in a holding vests in the land-holder (this may vest in the land-holder by several ways, e.g., by transfer, succession, surrender, abandonment, escheat, rent-auction sale, etc.), he shall have no right to hold the land as a ryot but shall hold it as a land-holder. This means that the character of the ryoti land will not be lost and the land-holder cannot have a kudivaram or the occupancy right over the land. He will hold the melwaram right only although he might be actually cultivating it for a number of years. During the record-of-rights operation many land-holders, especially the inamdars of whole inam villages were found to be cultivating some such lands. Some private lands were also under cultivating possession of the tenants. If the private lands had been converted into ryoti lands as provided in section 181 of the Madras Estates Land Act, they have been clearly recorded as ryoti (provided such conversion did not infringe the provisions of Act I of 1948) and there is nothing in the record-of-rights to show that the land was one's private land unlike in the record-of-rights of the North Orissa which showns such lands as " nijot babat stitiban ". But if the private lands were in possession of the tenants without such conversion, the lands were recorded in the " private land " khata of the land-holder without mentioning the cultivating possession of anybody. Thus the record-of-rights do not show which of the plots were in khas possession of the land-holder and which in possession of the tenants. The onus was, however, on the landholder to prove that the land was private land because under section 185, one has to presume that the land is not private land until the contrary is proved except in case of pre-settlement whole inam villages where it shall be presumed to be the private land if on the 12th September 1946 the land in the possession of the inamdar did not exceed five acres in extent.

It has been stated that the ryoti lands vesting in the land-holder do not become his private lands. The question of how to record such lands if they happened to be in his khas possession came up for consideration. The North Orissa Settlement solved this problem by preparing two separate khatas—one for private lands and another for lands in the cultivating possession of the proprietors which did not satisfy the definition of " private land " given in the Orissa Tenancy Act. The former was known as the "nijjote" khata and the latter as " nijchas ". In the major settlement operation in Ganjam, no similar suitable Oriya expression was evolved for distinguishing the character of these two important categories of lands. The private lands were recorded in the khata called " private land " which expression was noted in column 4 of the khatian and the plots in the cultivating possession of the land-holder which were not private lands were recorded in a khata called ' parityakta-o-bedakhali-ryoti ". In the Orissa Settlement, such a khata was also prepared but it truly represented only the lands which were lying fallow either being surrendered or abandoned or being purchased in rent auction sales otherwise known as bought-in lands, other cultivable waste lands being recorded in the abada jogya anabadi " khata. It would have been better to follow the North Orissa practice because recording of cultivated lands under the possession of the land-holder in the parityakta-o-bedakhali khata has led to confusion in the minds of the ryots as well as of their lawyers. Several revision petitions were filed, specially after abolition of the est ates by the land-holders for transferring the lands in their khas possession from the parityakta-o-bedakhali khatas to private land khatas. In some revision petitions the Member, Board of Revenue, has ordered to record such lands " under the khewat of the petitioner with the remark Nij-dakhal in column 4 of the khatian and the character of the land as ryoti ". It may be stated in this connection that after abolition of the estates all communal lands, other non-ryoti lands and waste lands, etc., have vested in the State Government. So the distinction between the character of the land recorded in the parityakta-o-bedakhali khata and that recorded in the private land khata is not of much importance because it is only the lands in " khas possession " of the intermediary on the date of vesting, whether recorded in the private land khata or in the parityakta-o-bedakhali khata or in the abada jogya anabadi khata, which shall be settled with him by the Collector under the Estates Abolition Act on ryoti basis. If, however, the intermediary owns less than 33 acres of land in total extent situated within the State of Orissa then the private lands even if they had been given on temporary lease would be settled with him on ryoti basis whereas the parityakta-o-bedakhali and other waste lands would be lost to him, as the lessees would hold them as " ryots ".

(*f*) The incidents of occupancy rights of a ryot under the Madras Estates Land Act are the following :-

He is entitled—

(1) to the heritability and alienability (in whole or in part) of his holding,

(2) to the use of the land so as not to impair its value or to render it unfit for agricultural purposes,

(3) to use, enjoy, cut down, carry away or dispose of all trees standing in his holding,

(4) to the preferential right to make improvements, unless it affects the holding of another ryot under the same land-holder,

(5) to reduction of rent on the ground of—

(*a*) permanent deterioration in the soil by a deposit of sand or by other specific cause without the fault of the ryot,

(*b*) permanent failure of supply from any irrigation work,

(*c*) fall in the average local prices of staple food crops in the taluk or the zamindary division ,

(6) to commutation of rent,

(7) to alteration of rent on the ground of alteration of area,

(8) to demand a patta by suit,

(9) to demand a receipt for rent paid,

(10) to compel the repair of irrigation works, if he along with other such applicants holds not less than 1/4th of the rent or of the extent of the ayacut,

(11) to demand an official appraisement or division of the produce,

(12) to relinquish his holding or part of it,

(13) to deposit rent due in the Collector's office.

The rights are more or less similar to those of occupancy ryots under the Orissa Tenancy Act except that there is no provision in the Orissa Tenancy Act for exchange of pattas and muchilikas and for compelling the landlord to repair irrgation works. Some of these specific rights were conferred very late to the occupancy ryots under the Orissa Tenancy Act. As for example, the right of transferability of holding or a part of it was conferred by an amendment to the Orissa Tenancy Act in the year 1938, whereas under the Madras Estates Land Act, this right was there from the very beginning. Before 1938 the landlords of the occupancy ryots in North Orissa were charging mutation fees to the extent of 25 per cent of the consideration money, but after 1938 occupancy holdings were made transferable without the landlord's consent and without payment of any fee to him. The incidents of these rights were not necessary to be recorded in detail in the record-of-rights because the Act defined the same. In the record-of-rights, the status was simply recorded as ' ryoti ' corresponding to the status ' stithiban ' or ' dakhal-swatwa-bisista ' in the record-of-rights of North Orissa Settlement.

(*ii*) *The Settlement Procedure*—(*a*) The most important difference between the two Acts regarding the settlement procedure is that under the Orissa Tenancy Act, the record-of-rights is not finally published if the settlement of land revenue (this includes settlement of rent in khasmahal areas) is being or is about to be made and the final publication of record-of-rights has to wait till the orders passed on objections to the settlement rent-roll are incorporated in the record-of-rights. Under the Madras Estates Land Act, these two stages of preparation of record-of-rights and settlement of rent are independent and the record-of-rights stage has to be finalised before rent settlement can be taken up, although rent settlement might closely follow the record-of-rights operation. This leads to avoidable waste of time and expenditure and to clumsiness in the records. The difficulties of finalising the map before final publication of record-of-rights have been mentioned in Chapter II, paragraph 12. Similar difficulty is inherent in finally publishing the record-of-rights before taking up the rent settlement. Under the Madras Estates Land Act, if the record-of-rights have been once finally published under section 166(2) of the Madras Estates Land Act, it will not again be finally published after rent settlement but will only be republished under section 170 (3) of the Madras Estates Land Act with the amendments ordered on objections to the rent-roll, (rent-roll is a copy of the record-of-rights except that in the rent-roll the holdings which are not assessable to rent are not included) filed under section 169(1) of the Madras Estates Land Act, incorporated in them. Therefore, although the law authorises incorporation of the changes ordered during rent settlement stage in the record-of-rights, still it does not authorise fresh copies of the record-of-rights to be prepared and distributed to the parties. Only supplemental or " Ka " khatas, as they are called, can be prepared in respect of holdings created out of the main holdings in the final record-of-rights. The ryots are entitled to have their pattas corrected during republication but are not entitled to fresh copies of the record-of-rights. The supplemental khatas containing only the lands acquired after final publication of the record-of-rights cannot be clubbed with the original khata of the ryot, although the lands under both the khatas are held by the same person under the same status. The difficulties and the clumsiness in the records were particularly conspicuous where changes ordered during rent settlement stage were numerous and they were in fact numerous chiefly owing to the time-lag between final publication and rent settlement stages. A mere look at the original copy of the record-of-rights would convince anybody that the record-of-rights have been prepared shabbily (they appear shabby due to numerous corrections in the original record-of-rights and also due to insertions of supplemental khatas by small bits of paper which have been pasted on the original khatas and some of them appear to have been lost or damaged by this time) and that they cannot be easily handled for maintenance or even for reference. The same difficulty as was present in the Madras Estates Land Act also crept into the Orissa Survey and Settlement Act, 1958, as originally enacted but by the Amendment Act 7 of 1962 not only the difficulties have been removed by prescribing a procedure for simultaneous proceedings under section 36 of the Orissa Survey and Settlement Act but also some major improvements have been effected and unnecessary, lengthy and expensive stages have been omitted. The zamindary areas have been programmed to be taken up again in the year 1966-67. If the revisional settlement

operation is taken up as programmed, clean and clear copies of record-of-rights would be prepared. It is regrettable that so much time and money have been spent in preparing records of such doubtful utility mainly owing to the lacuna in the law.

(*b*) Under the rules framed under the Orissa Tenancy Act, attestation of records was a statutory stage whereas this very important stage of settlement was not statutory under the Madras Estates Land Act. Still then bujharat and attestation of the preliminary record-of-rights before draft publishing the same were done in Ganjam following the North Orissa system. In the Orissa Survey and Settlement Rules, 1962, this stage has also been made statutory.

(*c*) In both the Acts, the existing rent is presumed to be fair and equitable until the contrary is proved. But in Ganjam, rent settlement was not done under section 168 of the Madras Estates Land Act to which this presumption applied. With a view to reducing the rents in the zamindary areas, section 168-A was inserted by Orissa Act XIX of 1947 and a proviso was also added by the same Amending Act to section 168 to the effect that the rent or the rate of rent which had been determined on the basis of half the gross produce or any proportion of the gross produce regardless of the cost of cultivation, should not be deemed to be fair and equitable. In the Orissa Tenancy Act, there is provision for publishing a table of rate according to a certain prescribed procedure and settling the rent in accordance with this table of rate. This principle does not seem to have ever been applied to rent settlements in Orissa, as the rent was generally settled as a percentage of increase of the old rent mainly on the ground of rise in the price of paddy. The principles of rent settlement followed in Ganjam will be discussed in Chapter VI. Generally speaking the half-net principle at average of the normal prices of certain number of years which was just an extension of the ryotwari principle of rent settlement to estate areas, introduced by amendment to sections 40 and 168 of the Madras Estates Land Act and the rules thereunder by Act XIX of 1947, was foreign to the rent settlement principle under the Orissa Tenancy Act.

After the passing of the Orissa Survey and Settlement Act, 1958 the procedure of rent settlement has been made uniform throughout Orissa. Rules 48 to 51 of the Orissa Survey and Settlement Rules, 1962 prescribe certain factors to be taken into consideration for fixing fair and equitable rent, but there is no clear-cut principle like the half-net principle of the ryotwari settlement. The Orissa Taxation Enquiry Committee under the Chairmanship of Dr. Lokanathan have recommended that state share should be fixed at one-third of the net produce at average of the prices of produce in ten normal years preceding the settlement. There should be statutory recognition to this or to some such principle so that the intradistrict and the inter-district wide disparities now prevailing in the rates of rent of similar classes of lands with similar facilities are wiped out, as far as possible, in the future rent settlements of Orissa.

20. *Amendments to the Madras Estates Land Act and the Rules made during the course of settlement operation*—(*i*) *Amendments to Madras Estates Land Act*—(*a*) According to sub-section (4) of section 164 of the Madras Estates Land Act, as it stood on the 1st April 1936, certified copies of survey plan, survey land register and field measurement book relating to any village which had been surveyed, should be furnished to the Karanam of the village and should be available for inspection by the ryots thereof. As in the major settlement operation, a detailed village map showing all fields and a record-of-rights was prepared dispensing with the preparation of Field Measurement Book and Survey Land Register, it was not possible to comply with this provision of the law. It was, therefore, considered necessary to amend this section. This section was amended by Act XI of 1944 which dispensed with the necessity of making over Survey Land Register and Field Measurement Book to the Karanam of the village.

(*b*) Section 166(2B) of the Madras Estates Land Act was amended by the same Act XI of 1944 to the effect that in the case of any village or area where there was no karanam, certified copies of the final record-of-rights should be made available for inspection by the ryots in such manner as the Revenue Commissioner might by general or special order direct. This amendment had, however, no effect in the Ganjam district as there were karanams in this district and this was mainly meant for the settlement operations in Koraput district.

(*c*) The circumstances leading to passing of the Orissa Act XVII of 1947 by which the definition of " estate " in section 3 (2) (*d*) of the Madras Estates Land Act was amended so as to bring in all pre-settlement whole inam villages within its orbit, will be discussed in paragraph 99 of Chapter X. This Act XVII of 1947 also made some important changes in section 185 of the Madras Estates Land Act. The old section 185 was substituted by 3 new sections, namely, 185, 185-A and 185-B. By the new section 185, the provision of the Madras Estates Land Act relating to private land was made applicable to private lands in whole inam villages, with a statutory presumption in favour of the inamdars as discussed in paragraph 33 of Chapter IV. Section 185-A required constitution of a tribunal to declare that the kudivaram in the lands of the village was vested in the inamdar on the first day of November 1933 and that he had retained it ever since. Applications to this effect had to be lodged within 3 years from the passing of the Act in such a manner as might be notified by the Government. No applications were filed by the inamdars in time. Therefore no tribunal was constituted. Some consequential amendments were also made by this Act XVII of 1947 to the definition of " private land " in section 3 (10), to section 6 regarding occopancy rights in ryoti land, to section 8 regarding merger of occupancy rights, to section 23 regarding presumption that inam villages were estates, to section 28 regarding fairness of rent paid in inam villages, to section 163-A regarding eviction of trespassers from ryoti lands and to section 192 regarding application of the Code of Civil Procecdure to the proceedings of the tribunal constituted under section 185-A.

(*d*) The circumstances leading to the passing of Act XIX of 1947 for reducing rents of zamindary ryots will be discussed in paragraph 65 of Chapter VI. This necessitated consequential amendments to sections 28 and 168 of the Madras Estates Land Act by which presumption of fairness and equitability attached to the existing rent did not apply to proceedings under section 40 or under Chapter XI of the Madras Estates Land Act. According to sub-section (3) of section 40, for determining the average value of rent actually accrued due to the landholder during the 10 years preceding the date of application for commutation, the prices of only famine years were excluded. But by the amending Act XIX of 1947, the prices of years declared as abnormal by Government were also excluded as the prices prevailing during the war period were treated as abnormal although those years might not be famine years. If the income in these years were included in calculating the amount of rent actually accrued due to the land-holders, the ryots would have paid higher rates of rent in both good and bad years.

The amended section made it further clear that while commuting the produce rent, the Collector should have regard to the money rent payable by the ryots for lands of similar description with similar advantages in the same village or neighbouring villages where settlement of fair and equitable rent had been made under the provisions of section 168 as amended by Act XIX of 1947 or by section 168-A. In various notifications issued from time to time the years 1941-42 to 1955-56 were declared as abnormal years. Difficulties were, therefore, experienced in getting income accounts of the land-holders during the 10 years preceding 1941-42. The amending Act also made provision that if the value of the land-holders income for such decennial period could not be ascertained, then the average value of the rent accrued due to the land-holder during any shorter period for which evidence might be available excluding famine and abnormal years should be taken into consideration. Act VI of 1951 made clause (*a*) of sub-section (3) of section 40 more clear by defining normal years to mean the years other than those which the State Government may notify to be or to have been famine or abnormal years. By this amending Act XIX of 1947, section 177 of the Madras Estates Land Act was also amended to give Government power to direct that the settled rent might take effect retrospectively in order to give benefits of the reduced rent to the ryots. In case of retrospective application of the settled rent, excess rent, if any, paid by the ryot could be either adjusted towards payment of future rent as so settled or was recoverable from the land-holder by a suit before the Collector. Under the old section 177 the rent once settled under Chapter XI of the Madras Estates Land Act could not be enhanced or reduced for a period of 20 years excepting on the ground of alteration of area or on the ground of increase or decrease of productivity. By this amending Act, the State Government got power to direct settlement of rent under section 168-A at any time within a period of 20 years. Act XIX of 1947 also made some consequential and minor changes in sections 169, 178 and 215 of the Madras Estates Land Act.

(*e*) Section 172 of the Madras Estates Land Act authorised the Board of Revenue either on application or on its own motion to direct the revision of record-of-rights or any portion of it any time within 2 years from the date of final publication under sub-section (2) of section 166 or if there has been a settlement of rent, within 2 years from the date of republication under section 170(3). Due to the Second World War settlement operation was suspended in 1942 and the operations were resumed in the year 1947. In some of the estates of Ganjam district, final publication of a large number of villages was done prior to 1942. As the settlement operations were suddenly closed in 1942 and the record-of-rights prepared prior to that date was removed to Jeypore in Koraput district as a measure of safety, the persons whose record-of-rights were finally published prior to 1942 could not avail of the opportunity afforded by the law. Orissa Act V of 1945 therefore extended the period of limitation to 6 years from the 18th June 1945. This period was further extended to 8 years by Orissa Act XXVIII of 1947. These amendments facilitated revision of record-of-rights by the Board of Revenue on application or on its own motion. By the Orissa Act X of 1944 a provision was made for revision under section 172 of the orders of the Revenue Commissioner in appeal under section 171 of the Madras Estates Land Act by a Commission consisting of the Revenue Commissioner and two other persons appointed by the State Government. The whole section 172 was recast by Act VI of 1951 and separate provision for correction of record-of-rights by the Board of Revenue on its own motion and also by application of parties was made.

(*ii*) *Amendments to the Statutory Rules*—As it was decided to prepare records according to the Bihar and Orissa method, it was found necessary to amend the statutory rules under the Madras Estates Land Act in certain respects to conform to this decision of Government.

(*a*) Rule 6 of the Statutory Rules required publication of a general notice in Form No. I before initiating the record-of-rights operation ordered by Government under sections 164 and 165 of the Madras Estates Land Act. In the judgement of the Orissa High Court on the writ petition of ex-Zamindar of Bodogoda regarding recovery of settlement costs, it was observed by the Honourable High Court that Form No. I prescribed under rule 6 was to be used only in cases where there was application for survey and settlement from the land-holder or the ryot. As the Ganjam Settlement Operation was initiated by Government *suo motu*, form No. I was amended in Revenue Department notification No. 2439-L.R.S., dated the 22nd November 1954 to include cases where the survey and settlement operation was initiated *suo motu* by Government.

(*b*) Rule 14 of the Statutory Rules was amended in 1941 to make provision for supply of a copy of the final record-of-rights to the land-holder and extracts from the record-of-rights to the ryots and other occupants under the seal and signature of the Collector at the time of final publication. Under the old rules, such copies were supplied after incorporation of the settled rent at the time of republication of record-of-rights.

(*c*) Rule 18 of the Statutory Rules was also amended in 1941 to omit the provision regarding supply of copies of rent-rolls to the land-holder and the ryot during the period of draft publication as supply of such copies was considered unnecessary. This rule 18 was further amended in 1947 in accordance with amendments to sections 40 and 168 of the Madras Estates Land Act by Act XIX of 1947.

(*d*) Rule 23 was substituted by another rule of the same number in 1948. The old provision regarding reading out of the contents of the record-of-rights at the time of republication was omitted as copies and extracts of record-of-rights were to be supplied at the time of final publication and amendments ordered under section 169(1) of the Madras Estates Land Act were to be incorporated in the copies supplied previously. This amended rule made provision for supplying copies of final record-of-rights at the time of republication to the land-holder and the ryots and other occupants if this had not been supplied to them at an previous stage.

(*e*) According to rules 25 and 26, extracts of consolidated record-of-rights and settlement of rent as finally republished had to be supplied to the ryots and the land-holders. As rule 14 was amended for supplying copies of the final record-of-rights to the ryots and land-holders, etc., at the time of final publication stage and as rule 23 was also amended in such a way that the ryots and the land-holders and karanams might get the settled rent and the amendments ordered under section 169(1) incorporated in their copies of the record-of-rights at the time of republication, rules 25 and 26 were deleted by Government order No. 1380-R., dated the 14th May 1941.

(*f*) As the procedure of fixing fair and equitable rent was changed under the provisions of Act XIX of 1947 it was found necessary to frame detailed rules for the guidance of officers doing rent settlement. Further it was found necessary to prescribe certain procedure for making up-to-date the final record-of-rights which had been republished in the minor settlement operations long ago before draft publishing the same as rent-rolls for

inviting objections. Detailed rules under sections 40 and 168-A were therefore framed in Government notification No. 7798-R., dated the 20th September 1947. The provisions under these rules will be discussed at length in the rent settlement, Chapter VI.

(*g*) According to rule 19, objection petitions against any entry in or omission from the rent-roll were to be filed in Form No. 12. As all kinds of objections were intended to be entertained owing to the time-lag between the final publication and rent settlement, Form No. 12 was found inconvenient and so the rule was amended to receive objections in Form No. 5 deleting Form No. 12. This rule was further amended in 1950 to realise remeasurement fees on objections filed for correction of any measurement or any boundary and seeking for fresh inspection or measurement. Previously there was provision of realising remeasurement and reinspection fees only on obejctions filed under section 166(1) of the Madras Estates Land Act and not under section 169 (1). Rule 19 was amended to discourage unnecessary and frivolous objection petitions at the time of rent settlement. The statutory period of 3 months for filing objections to any entry in or omission from the rent rolls given in old rule 19 was also amended and the time was reduced to one month. Form Nos. 9 and 11 were amended accordingly.

(*h*) Under the statutory rules under the Orissa Tenancy Act, if a special notice is issued to the defaulter who fails to respond to the call of the Revenue Officer requiring him to appear before him or to furnish any information then a process fee of Rs. 0-12-0 can be levied. Such a rule was not in existence in the statutory rules under the Madras Estates Land Act. A provision was made by amending the rule in notification No. 9070-R., dated the 3rd August 1949 to levy process fee of Rs. 0-12-0 on any individual if a special notice was issued to him for his non-attendance before the Collector or for his failure to furnish him any information which was considered to be in his possession. Recourse to this penal provision of the Law has not been taken in the Major Settlement Operation as it was, on the face of it, a very non-effective provision for enforcing attendance. The problem of non-attendance of ryots specially during preparation of preliminary record-of-rights to point out boundaries and ownership assumed very serious proportion, but nothing could be done excepting pursuading the people to co-operate and guard their own interest. The Bengal Survey Act, 1875 which was applicable for the settlement operation in North Orissa made very effective provision for enforcing attendance of parties during the settlement operation as under section 51 of this Act a daily fine of fifty rupees could be levied on any person who failed to comply with a requisition contained in any special notice issued to him under section 7 requiring him to attend before the Assistant Settlement Officer. Neither the Madras Survey and Boundaries Act nor the Madras Estates Land Act contained any such penal provision.

21. *Passing of other tenancy laws and their effect on the Major Settlement Operation*—(*a*) In order to save the private forests from wanton destruction the Orissa Preservation of Private Forests Ordinance, 1946 was issued. This was subsequently replaced by the Orissa Preservation of Private Forests Act VIII of 1947 which is still in force. It defined "forest" as including communal lands containing trees and shrubs and any class of land declared to be a forest by Government notification excluding reserve and protected forests. It prohibited leases or alienations of any part of a forest, by an owner without the previous sanction of the Government or any officer authorised by them. Some cases of transfer of forest lands as defined in this Act seemed to have been done in contravention of this Act specially in Khallikote and Dharakote estates. But as there was no objection from any side and the illegality was not specifically brought to the notice of the settlement department, the leases have been validated by preparing the records in the names of the lessees.

(*b*) The Orissa Communal, Forests and Private Lands (Prohibition of Alienation) Act (Act I of 1948) was passed when it came to the notice of Government that landlords were resorting to large scale alienation and assignment of communal, forests and private lands on receipt of high premium. This Act was made effective retrospectively from 1st April 1946. It prohibited alienation of communal, forests and private lands by any landlord without the previous sanction of the Collector but protected the transactions made after 1st April 1946 but before passing of the Act if they satisfied certain conditions. A large number of illegal alienations of this nature in Khallikote and Athagada estates were noticed during the rent settlement operation and a report to this effect was sent to the Collector for necessary action.

(*c*) Pending enactment of comprehensive land reform measures the Orissa Tenants' Protection Act (Orissa Act 3 of 1948) was passed for protection against the arbitrary eviction of the tenants holding on produce rent and for fixing a maximum on the quantum of rent payable by them. This Act was made effective retrospectively from 1st September 1947. The Act defined a 'tenant' as a person paying produce rent or rent fixed on the estimated value of the produce and provided that such a tenant would be protected from arbitrary eviction by the landlord and would not be liable to pay more than one-third of the gross produce of the land or value thereof as rent, if he was an occupancy ryot in the northern district, one-sixth of such produce, if he was an occupancy ryot in the southern district, two-fifth of the gross produce, if he had no right of occupancy. The Act exempted landlords who were ryots having less than 33 acres of land from the operation of the provision relating to protection of tenants from eviction. This Act was intended to be in force up to the 15th January 1949 but it was extended from time to time till 1955 when it was replaced by the Orissa Tenants' Relief Act (Act 5 of 1955).

The question whether the proportion of rent limited under the Orissa Tanants' Protection Act could be recorded in the record-of-rights as the lawful rent payable at the time of preparation of record-of-rights was the subject of a much heated discussion. In this connection there was a Government order, an extract of which is quoted below: "It is apprehended that the Orissa Tenants' Protection Act which has been enacted subsequent to the passing of the Orissa Act XIX of 1947 (Rent Reduction Act), is likely to create confusion in the matter of adjustment of rent. In this connection I am to say that it has been clearly laid down in section 6 (2) of the Orissa Tenants' Protection Act that the provision of the Madras Estates Land (Orissa Amendment) Act, 1947 (Orissa Act XIX of 1947), will not be affected by the former Act. Hence, the provision of the latter Act will override the provision of the former Act."

The above Government order was interpreted to mean that the proportion of rent in the Orissa Tenants' Protection Act was not to be treated as the legally payable rent. Accordingly half the gross produce was recorded as the lawfully payable rent in all cases in the record-of-rights. This was challenged by Dr. H. K. Mahatab in a communication, dated the 10th February 1954 to the then Revenue Minister on the representation of the ryots during his tours in this district especially in Ponkala mutha of Khallikote estate. A detailed report was submitted to the Board in this respect. The Board of Revenue finally decided to leave records as they were.

It was considered expedient to repeal the Orissa Tenants' Protection Act and substitute it by a more comprehensive legislation covering all the temporary tenants and all tenants liable to pay produce rent. Accordingly the Orissa Tenants'Relief Act , 1955 (Act 5 of 1955) was passed, which repealed the Orissa Tenants' Protection Act. This Act has been extended from time to time and is still in force and is intended to continue until comprehensive land reform measures are enforced by introducing the provisions of the Orissa Land Reforms Act. This Act ( Act 5 of 1955 ) confers some additional rights on tenants both in the matter of the quantum of rent and in the matter of eviction. By this Act, all temporary tenants have achieved the rights which are more or less similar to the rights of an occupancy ryot though this right is temporary in nature and is neither heritable nor transferrable. As in case of the previous Act, the enactment of the Orissa Tenants Relief Act also had no effect on the record-of-rights operation in the district. (After introduction of the Orissa Survey and Settlement Act, 1958 the possession of Bhagchasis is being recorded in the record-of rights in the ryotwari settelement operation).

(*d*) The Orissa Estates Abolition Act, 1951 (Orissa Act I of 1952), was passed "providing for the abolition of all the rights,title and interest in land of intermediaries between the royt and the State of Orissa and for vesting in the said State all the said rights, title and interest in pursuance of the directive principles of the State policy laid down by the Constitution wherein it is incumbent on the State to secure the ownership and control of all material resources of the community so that they may best subserve the common good and to prevent the concentration of wealth and means of production to the common detriment". After the coming into force of this Act Government started taking over several estates in convenient batches. So far as Ganjam district was concerned, the zamindarries were taken over on the 1st June 1953. Thereafter the inam estates have been taken over in several batches except in some cases where writs were allowed by the High Court or the Supreme Court. It was intended to constitute local authorities to be called Anchal Sasans for the purpose of management of all estates vested in the State Government under provisions of this Act and for this purpose the Orissa Anchal Sasan Act, 1955 was passed. But subsequently Government decided that the management of the estates taken over by the Government should be on the pattern of the management prevailing in the rytowari or the Khasmahal areas. By the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957), section 14 of the Orissa Estates Abolition Act, 1951 was amended and it was provided that the estates vested in the State Government should be managed according to the laws, rules and regulations for the time being in force for the management Government estate or ryotwari areas or other areas under the direct management of Government by whatever name known, as the case may be, subject to the provisions of the Orissa Estates Abolition Act.

The Orissa Estates Abolition Act repealed the Madras Estates Land Act but in section 49 of the Orissa Estates Abolition Act it was provided that any proceeding pending on the date of vesting with respect to the Survey and Settlement operations under any of the tenancy laws should be continued as if the Orissa Estates Abolition Act had not come into force. When the Orissa Estates Abolition Act came into force in the district of Ganjam, the record-of -rights had been finally published in 2,005 villages and in 110 villages record-of-rights had not been finally published. Rent settlement had been finished in 1,546 villages and this was pending in 459 villages. Section 49 of the Orissa Estates Abolition Act did not make it clear as to up to which stage the proceedings should continue under the provisions of the old law. Even the Orissa Survey and Settelement Act, 1958, which contained a similar provision in section 46 did not make this piont clear. This point has since been made clear by the Orissa Survey and Settelement (Amendment) Act (Act 7 of 1962), which has provided that all such proceedings shall be continued up to the stage of final publication of records. It was, therefore, interpreted that the proceedings should be continued under the Madras Estates Land Act up to the stage of republication and even subsequent stages like revision by the Board of Revenue should also be done under the provisions of the Madras Estates Land Act.

The effect of the passing of the Orissa Estates Abolition Act on the record-of-rights prepared in this settlement is as follows—

(*i*) Since all proprietory or the rent-receiving interests have vested in the State Government, khewat No.1 given to the landlord, khewat No.3 prepared for samilat interests and khewat No. 4 which is a sub-landlord's khewat prepared for irresumable darmila inamdars shall belong to the State Government and only one khewat, namely, khewat No. 1 will be prepared for all such lands together with the lands recorded in khewat No.2-A of the State Government. In respect of only 93 villages record-of-rights were finally published after the coming into force of the Orissa Estates Abolition Act. The record-of-rights of 2,005 villages (1,573 ryoti and 432 inam villages) had been finally published before the date of vesting. Rent Settlement had been completed in respect of 1,546 ryoti villages before the date of vesting. The record-of-rights of 1 ryoti and 92 inam Villages were finally published after the date of vesting. The records of 12 ryoti and 278 inam villages were republished after the date of vesting . On the date of vesting, the records of the villages had reached the following stages of settlement operation—

(*a*) Records which were finally republished under section 170 (3) of the Madras Estates Land Act and the statutory period of filing revision petition was over.

(*b*) Records which were finally published under section 166 (2) of the Madras Estates Land Act and the statutory period of filing revision petiton had expired, but were pending for rent settlement.

(*c*) Records in which objection hearing under section 166 (1) of the Madras Estates Land Act was finalised, but were awaiting final publication.

(*d*) Records which had not reached the final publication stage.

In respect of records mentioned at (*a*) above, it was decided that they would be left as they were. In respect of records mentioned at (*b*) above it was decided that the name of the land-holder would be corrected on filing of specific objection by the Collector under section 169 (1) of the Madras Estates Land Act. In some cases objections were filed and khewats were corrected in the name of Orissa Sircar, but in other cases, this could not be done as the Collector did not file objection petitions in time. In respect of records mentioned at (*c*) above, it was decided that necessary corrections would be made either by way of revision by the Board of Revenue under section 172 of the Madras Estates Land Act after final publication or during rent objection hearing stage under section 169 (1) of the Madras Estates Land Act. The Tahasildars have filed revision petitions for correction of khewats in respect of 78 villages of this category and the petitions have not yet been disposed of by the Board.

In respect of records mentioned at (*d*) above, it was decided that correction could be made *suo motu* by the settlement department as in case of any other mistakes detected in the preliminary record-of-rights. This last category of villages are still pending and are included in the list of pending villages given in Appendix I.

(*ii*) As the records were prepared in the names of the land-holders, private land khatas prepared during the course of preparation of preliminary record-of-rights still exist. Homesteads and lands in khas possession of the ex-land holders are required to be settled with them on ryoti basis by the Estates Abolition Collectors, i.e., Tahasildars under sections 6 and 7 of the Orissa Estates Abolition Act by following the prescribed procedure. Some revision petitions have been filed before the Board of Revenue for conversion of such lands into ryoti although the Tahasildars are the proper authorities for disposal of such applications. The holders of service lands held for doing personal service of the ex-intermediary are to be discharged from the conditions of such service and the lands held by them are to be settled with them on ryoti basis on payment of fair and equitable rent by the Estate Abolition Collectors. Service lands held for doing communal service in the village will continue under the old terms and conditions. The rights and liabilities attached to any other lands in the estates before the abolition have been protected under section 8 (1) of the Orissa Estates Abolition Act. The holders of such lands will hold in the same rights and subject to the same restrictions and liabilities as they were entitled or subject to immediately before the date of vesting. Fraudulent leases of lands made after the 1st January 1946 were liable to be cancelled under section 5 (*i*) of the Orissa Estates Abolition Act by the Collector.

Thus, it will be seen that the implementation of the Orissa Estates Abolition Act has rendered some of the entries in the record-of-rights already prepared obsolete. Where there is scope to correct these entries, steps have been taken to do so. Otherwise, the Tahsildars have to effect necessary corrections in the course of maintenance of the record-of-rights under Chapter IV of the Orissa Survey and Settlement Rules, 1962.

## CHAPTER IV

### RECORD-OF-RIGHTS

22. *Procedure*—(*i*) The operation starts by the Government making an order directing preparation of record-of-rights by the Collector under section 164 of the Madras Estates Land Act. This may be done on application of the parties concerned or in certain circumstances *suo motu* by Government. For preparation of record-of-rights, a survey under the Madras Survey and Boundaries Act is essential under sub-section (3) of section 164. Certain officers are appointed as Collectors to conduct the operation. Collector includes any person appointed by Government to exercise any of the functions of a Collector under the Act. Generally the officers appointed to carry on settlement operations are appointed as Collectors under Chapters XI and XII of the Madras Estates Land Act. Particulars to be recorded in the record-of-rights are also mentioned in the Government order. Then a draft record-of-rights is prepared by the Collector in the prescribed manner which is published for inviting objections to any entry in or omission therefrom. The objections must be filed within a prescribed period (3 months under the statutory rules of the Madras Estates Land Act). After disposal of the objections and amendment of the draft record-of-rights in accordance with the orders passed on such objections, the records are finally framed and published under section 166(2) of the Madras Estates Land Act. Every entry in a finally published record-of-rights is presumed to be correct until the contrary is proved.

(*ii*) The rules framed under the Madras Estates Land Act prescribe in some more details the procedure for preparation of draft record-of-rights, its publication and receiving of objections and final publication. At the first stage, the Collector is to publish a general notice in Form No. I inviting every person claiming to be interested in the lands of the village to clear obstructions to existing survey marks, to put survey marks to indicate their individual rights and occupation and to be present before the Collector to point out boundaries and supply information for the purpose of preparation of record-of-rights and to produce evidence in support of their rights and to provide labour,etc. After preparation of draft record-of-rights, a notice in Form No.2 is published in the prescribed manner informing the parties about the date of its publication and inviting all persons to attend. On the date fixed for publication of the draft record, the entries in the draft record-of-rights are read out and the persons present are informed that the record-of-rights will remain open for inspection in the camp office for three months from the date of publication of the draft record and that objections, if any, be preferred in Form No.5 within the said period after which no objection will be entertained. An individual notice to this effect is also served on each person concerned along with an extract of the draft record-of-rights concerning his lands. If an objection is made, a notice in Form No. 6 is served on all persons whose interests may, in the opinion of the Collector, be affected thereby and they are called upon to attend at such time and place as the Collector may fix for the disposal of the objection. If the correctness of any measurement or any boundary laid out is objected to and fresh inspection and measurement is demanded, the party so objecting and demanding is required to deposit the cost of the remeasurement and reinspection as determined by the Collector. If after the reinspection or remeasurement it appears that the original measurement was wrong and the inaccuracy was not due to any omission on the part of the party in pointing out boundaries, furnishing information and producing records in proper time,the Collector may order the amount deposited or any part of it to be refunded to the objector. After disposal of all objections, the draft record-of-rights are corrected in accordance with orders passed on the objections after which the record-of-rights are finally framed for final publication. At the time of final publication, the record-of-rights is published by exposing its contents to public view and by reading out the extracts concerning any individual *bona fide* interested in the record, if desired by him. The fact of final publication has to be certified at the foot of the record-of-rights under the signature of the Collector or other officer deputed by him and attested by the village officers. At the time of final publication the land-holder is entitled to a copy of the record-of-rights. The ryot is also entitled to an extract from the record-of-rights relating to his tenancy and the karanam of the village is also entitled to a copy.

This is broadly the position of law with regard to preparation of record-of-rights. It is not, however, possible for any statute to prescribe all the minute details for preparation of record-of-rights or for that matter any other operation. So the detailed rules are left to be framed by the heads of departments or heads of offices. As the settlement operations are conducted under the administrative control of the Board of Revenue, executive instructions for different stages of settlement are framed for guidance of Settlement Officers and Assistant Settlement Officers by the Board of Revenue. These executive rules supplement the statutory rules and law on the subject and cannot be contradictory to the provisions of the statute. The " Techinical Rules of the Settlement, Bihar and Orissa ", Volumes I and II and the " Bihar and Orissa Survey and Settlement Manual, 1928 " containing the executive instructions of the Board of Revenue were followed *mutatis mutandis*, in the major settlement operation in Ganjam. Detailed executive instructions relating to survey, khanapuri, bujharat, attestation, draft publication, objection hearing, final publication, rent enquiry, preparation and publication of settlement rent-roll, rent objection hearing, confirmation of rent, republication, patta distribution, etc., were also framed by the Settlement Officer for the guidance of the Assistant Settlement Officers.

(*iii*) Unlike the Orissa Tenancy Act, the Madras Estates Land Act does not provide for attestation of the draft record-of-rights before its publication. Attestation is preceded by bujharat, i.e., explanation of the entries in the draft record-of-rights to the parties with a view to either getting the entries confirmed by them or getting them altered by instituting oral or written objections before the Assistant Settlement Officer. Although bujharat and attestation were not statutory stages under the Madras Estates Land Act, still the rules regarding bujharat and attestation followed in North Orissa Settlement were adopted, *mutatis mutandis*, to the Ganjam Settlement Operations. Experience shows that during the limited period of field enquiry it is not possible to prepare a correct record-of-rights. Moreover during the field operation, the ryots do not get opportunity to know what is being recorded. It is, therefore, absolutely necessary to let them know about the entries in the record-of-rights concerning them so that they might get opportunities to raise objection to any entry in or omission therefrom before the record-of-rights reach draft publication stage. During the bujharat and attestation stages, the Assistant Settlement Officer has powers to make necessary corrections in the draft record-of-rights prepared during Khanapuri stage either on his own motion or on written or verbal objection by the party. Experience shows that bujharat and attestation stages form the backbone of the settlement operation and are the most useful and important stages in preparing correct record-of-rights. That is why bujharat and attestation were introduced in the Ganjam Settlement although they were not statutory stages under the Madras Estates Land Act. (This

lacuna in the law has since been removed by making the attestation compulsory under the Orissa Survey and Settlement Rules, 1962).

23. *Particulars recorded*—The order of the Government under section 164 of the Madras Estates Land Act on which the Ganjam Major Settlement was started, specified the following particulars to be recorded :—

(*a*) The name of each ryot's land-holder and of each land-holder in the estate or portion thereof

(*b*) the name of the ryot, or where there is no ryot, the name of the occupant

(*c*) The situation, extent and one or more of the boundaries of the land held by the ryot, as shown in the survey map of the village.

(*d*) Whether the land is irrigated, unirrigated or garden land and if irrigated, whether double or a single crop.

(*e*) The rent lawfully payable at the time the record is being prepared and whether the ryot is entitled to the benefit of proviso (*a*) of clause (*i*) of section 30.

(*f*) How the rent has been fixed, whether by decree or under the provisions of this act or otherwise

(*g*) Any rights lawfully incident to the holding

(*h*) If the rent is gradually increasing rent, the times at which and stages by which it increases.

(*i*) If the land is claimed to be held free of rent, whether rent is actually paid or not and when rent is not paid, whether the occupant is entitled to hold the land without such payment and if so entitled, on what authority and the rent payable if the land were liable to rent.

(*j*) The record of irrigation rights ordered under sub-section (3) of section 164 and the record of special rights in the waste land ordered under the same sub-section.

The headings of the draft khatian form which form the main and the most important constitutent of the record-of-rights strictly conformed to the particulars ordered by Government to be recorded. The headings of this form were approved by the Revenue Commissioner in his letter No. 180—II-5/38-L.R.S., dated the 17th February 1939.

24. *Records of minor settlement operation*—The following records prepared previously were available for use and reference during the major settlement operation :—

(*a*) The records of villages of which only survey had been finished (There were 853 such villages)

(*b*) Records of villages which were finally published in the minor settlement operation (53 villages).

(*c*) Records of villages of which rent settlement had been finished and republished under section 170(3) of the Madras Estates Land Act (276 villages).

The details of records which were received for each of the categories of villages mentioned above and those prepared during the major settlement operation in those villages as well as in the originally surveyed villages are given in Appendix II. The records prepared in the major settlement followed the Bihar and Orissa pattern with such modifications as were necessary to conform to the legal provisions.

25. *Constitution of record-of-rights*—The Revenue Commissioner in 1939 passed an order declaring the following records to constitute the record-of-rights :—

(1) Khewat (the record-of-rights of land-holders)

(2) Khatian (Record-of-rights register) and plot index

(3) Irrigation khatian (Record of irrigation rights)

(4) Descriptive Memoir

These records were accordingly draft published till 1941. According to two subsequent orders passed by the Government in 1941, the Descriptive Memoir was declared not to form a part of the record-of-rights. Therefore, many Descriptive Memoirs which were draft published in accordance with the earlier order of the Revenue Commissioner on the subject were not finally published. But these memoirs which were comparable to village-notes of North Orissa were continued to be prepared carefully as they were very important documents.

26. *Recording of status*—The Madras Estates Land Act, the Agrarian Code under which the record-of-rights and settlement operations were taken up, deals with two broad statuses, namely, (*i*) the land-holder and (*ii*) the ryot. It specifically excludes the tenants of the land-holder on his private lands and the tenants of the ryots from its purview (section 19) and therefore, leaves their relation to be regulated by the Contract Act or the Transfer of Property Act. Compared to the Orissa Tenancy Act which gives a well-defined status to every-body interested in land and thereby having the outward appearance of a very clumsy piece of legislation, the Madras Estates Land Act which in clear terms states that it is intended to define the relationship between the land-holder and his ryots (and these terms have been very regidly defined in the Madras Estates Land Act) appears on the face of it, to be a very simple and straight forward piece of legislation. One would, therefore, be tempted to think that the recording of statuses recognised in the law would have been a very simple proposition. In fact, however, this was not so. That the law did not recognise many rights in land and the definition of the "land-holder" was peculiarly worded and that under the Government order an occupant (though he might not be either a land-holder or a ryot) was also entitled to be recorded in the record-of-rights made it difficult for the Settlement Officer in the early period of this settlement to issue clear-cut orders in the matter of recording the status of the persons in the record-of-rights and amendments of the orders were being issued from time to time as the operation progressed and experience was gained. Added to this many peculiar expressions like "ଶାଶ୍ୱତ ବ୍ୟକ୍ତିଗତ ଉତ୍ପନ୍ନ" meaning a ryot having permanent right of occupancy, "ଶାଶ୍ୱତ ବ୍ୟକ୍ତିଗତ ଉତ୍ପନ୍ନ" meaning a ryot not having permanent right of occupancy (though such a right is not recognised by law), "ଅସ୍ଥାୟୀ ଚାଷୀ ଅସ୍ଥାୟୀଚାଷ" meaning an under-tenant having no right

"Kami jeroyati" meaning excess over inam lands, were recorded as the status of different lands in the records of the minor settlement operation. These expressions were not idiomatic and natural in the Oriya language and therefore, they were not used in the records of the Major Settlement though they were left in tact in the finally published or finally republished records of the minor settlement, as they could not be altered under the law. In the major settlement operation such unstatutory and even illegal expressions were avoided and the expressions strictly conformed to the statutory requirements. Special incidents, if any, attached to the holding were recorded in the " special incidence " column of the khatians. A glossary of words and abbreviations used in the major settlement records is given in Appendix VIII. Statuses were recorded in the khewats and khatians . Paras. 27 to 34 describe the different statuses recorded in the present settlement.

27. *Land-holder*—(*i*) The definition of "Land-holder" includes, besides an owner, one who is entitled to collect the rent due in respect of the whole or portion of an estate. The Estate Land Act adopts one comprehensive definition for both the "owner " of an estate and a person who has only a subordinate interest which entitles him to collect rents. The pre-settlement whole inam villages were declared as estates by Orissa Act XVII of 1947. Consequently the owners of all pre-settlement whole inam villages came under the definition of land-holders. Under section 3(5) all owners of estates are land-holders . But all land-holders who are entitled to recover rents need not necessarily be owners of estates. There is some difficulty in reconciling the definition of an estate and the definition of a land-holder. According to the preamble of the Act, the Act was intended to declare and amend the law relating to the holding of land in estates in the Presidency of Madras. But when we come to the definition of land-holder, we find that it means a person owning an estate or a part thereof and includes every person entitled to collect the rents of the whole or any portion of the estate by virtue of any transfer from the owner or his predecessor-in-title. A minor inamdar holding under a post-settlement grant for melwarm right only has been held to be a land-holder within the definition in section 3(5) of the Madras Estates Land Act though he would not be the owner of an estate or a part of an estate.

(*ii*) Where the transfer by the holder of a permanently settled estate does not amount to a transfer of ownership by a proprietor but only amounts to the creation of an under-tenure, like a Mokhasa, etc., the portion transferred is not an estate under section 3(2) (*b*), but would constitute an estate under section 3(2) (*e*), being a portion of an estate held on a permanent under-tenure. because unless there was a transfer of ownership (a permanent lease is not a transfer within the meaning of section 8 of the Regulation XXV of 1802), the grantee was not entitled to separate registry under Act I of 1876 (which was the law governing disposal of applications for separate assessment and registry of alienated portion of permanently settled estates).

(*iii*) The rights of the land-holders were not recorded in Khewats (Record of land-holder's right) in any of the minor settlement records. But in the Major Settlement, the records of land-holder's right in proprietary tenures were prepared in khewats following the North Orissa pattern. The right of the lessees and mortgagees were not recorded in the khewats as their interests were temporary in nature. Where, however, an estate was under the management of the Court of Wards, the Manager of the Court of Wards on behalf of the lawfull landholder was recorded in the record-of-rights. Khewats were classified as follows with the approval of Goverrment.

*Khewat No. 1*—Khewat No. 1 was given to all owners of "estates", including the inamdars of inam "estates". For co-sharers having separate possession, batta khewats with letters, A,B, etc., as determinator were prepared. In the status column of the khewat, the status has been recorded as "ଗଡଜାତ", or the actual status of the inam estate, as the case may be.

The following lands were kept under this khewat:—

(1) Heta (private lands of the land-holder)

(2) Parityakta-O-Bedakhali ryoti (cultivated ryoti lands abandoned or surrendered and not in the occupation of ryots).

(3) Ryoti (ryoti lands in the occupation of ryots)

(4) All Darmila inam lands forming part of the parent estate.

(5) Abadajogya anabadi (cultivable waste lands which are also ryoti lands).

(6) Abada Ajogya Anabadi lands (waste lands that cannot be cultivated).

*Khewat No.2-A*—This was prepared in the name of the Government (State Government) with the following khatians:—

(1) Khatians for minor pre-settlement inams in which Government is solely interested.

(2) Khatians for ryotiwari lands under Government on conversion of resumed inams.

(3) Khatians for lands directly in the occupation of Government Departments or Local Bodies except District Board Roads and drains which were kept in the poramboke khata along with other poramboke lands.

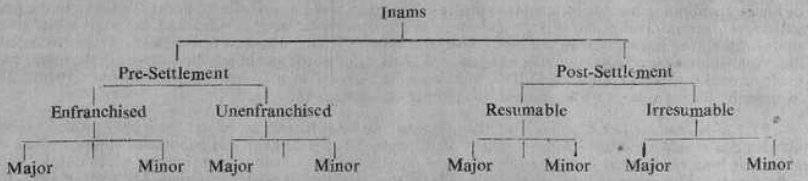
*Khewat No. 2-B*—All khatians of lands in which Central Government was interested, such as railway lands, etc., were kept under this khewat.

*Khewat No. 3*—There were some pre-settlement inam lands in respect of which Government got a quit rent and the land-holder also was getting a nominal rent which was known as kattubadi. These inam khatians were kept under this khewat, this being a Samilat of khewats 1 and 2-A showing separately in the khatians the amounts payable to State Government and to the land-holder.

*Khewat No.4*—This was prepared for major darmila inams, but later on this was limited to irresumable major darmila inams under orders of Government (vide para. 28). (After abolition of the intermediaries under the Estates Abolition Act, there would henceforward be only two khewats, namely, khewat No.1 for the lands of the State Government and No.2 for those of the Union Government).

28. *Inams* (*See* also paragraph 99 of Chapter X).

The following table shows the division and subdivision of inams:—




(*i*) *Pre-settlement Inams*—These tenures may be either rent-free or held on payment of quit-rent. The inams that had been granted before the permanent settlement of the estates in 1802 are known as pre-settlement inams. Government are interested in the pre-settlement inams the assets of which are excluded from the total assets of the estates when the land revenue of the estates was permanently fixed. Hence, these inams are also sometimes referred to as Government interested lands, i.e., G.I. lands. A milan (comparison) of the present area of the pre-settlement inam lands was made with that entered in the survey land register or the old record-of-rights, as the case may be, and discrepancies, if any, were reconciled by enquiries after making entries in the change registers.

In respect of some of the pre-settlement inam lands a quit-rent was payable to Government along and nothing to the estate. These minor inams were recorded in the present settlement solely under the Government khewat. In other pre-settlement inams, a quit-rent known as Kattubadi was also payable to the estates. These tenures were recorded under the Samilat khewat of the land-holder and the Government. The pre-settlement inams are further subdivided into enfranchised and unenfranchised inams. Enfranchised inams are in the same position as ryotwari lands in respect of succession, transfer, subdivision and sale for arrears of quit-rent. They may also be accepted as security for any purpose in the same manner as ryotwari lands. The right of unenfranchised inamdars is restricted in these respects and these inams are liable to resumption and to assessment of full rent by Government on infringement of the conditions of the sanads or title deeds confirming the inams. (The circumstances leading to enfranchisement have been described in paragraph 99 of Chapter X).

The following kinds of pre-settlement inams are enfranchised inams:—

(*a*) *Village Service inams*—Inams granted to village officers and village servants such as Karji, Karnam, Dandasi and Taliyari for revenue and police services still required. These inams are always enfranchised and have been differentiated from inams granted for service to the village community, e.g., Inams to barbers, blacksmiths, potters etc., which are unenfranchised. Inams granted for services to the village community are known as village Artisan Inams.

(*b*) Some personal or subsistence inams, such as Brahmadayam inams (also called Agraharams or Srotriems) granted by former Governments for remuneration of services in the Revenue or Police Department which are no longer rendered or required but have been declared enfranchised in the title-deeds granted by the Inam Commissioner. Inams granted to religious persons such as Brahmins or persons well versed in Vedas also come under this category.

When cases of transfers of enfranchised pre-settlement inams were found, khatians were prepared for the transferred portions in the names of the transferees. These khatas show the portions in the transferee's possession and the portion of the quit-rent of the original tenure payable by the transferees according to the facts actually existing.

The following pre-settlement inams are unenfranchised inams :—

(*a*) *Religious and Charitable Inams* (*also called Debadayam or Dharmadayam*)—These are grants to religious and charitable institutions made for the performance of service to these institutions.

(*b*) *Village Artisan Inams*—These are held by barbers, carpenters, blacksmiths, washermen, potters, purohits (priests), astrologers and temple servants, etc.

(*c*) Some personal or subsistence inams and inams granted by former Government for the remuneration of iservices in the Revenue or Police Departments which are no longer rendered or required and which have not been declared to be enfranchised in the title-deeds granted by the Inam Commissioner. These inams have been held not to have been enfranchised if it was found that no quit-rent was payable to Government for them (unless it had been redeemed).

None of these three classes of inams can be alienated in whole or in part in any way. Succession in the case of inams of class (*b*) above is governed by the law of primogeniture. Hence, partitions of these inams among the members of the inamdar's family was ignored and no subdivision was made for such partitions. All classes of illegal alienations of these lands have been reported to the District Collector for necessary action. The possession of illegal alienees was noted separately with the details of illegal possession in the remarks column against the plots concerned. The khatians for the inam holdings were prepared in the name of the lawful inamdar and no attempt to split up the quit-rent, if any payable, was made.

Partition of the inams coming under class (*a*) above among different co-sharers, sebaits or marfatdars and inams coming under class (*c*) above among co-sharer inamdars was not recognised but their respective possession was noted in the remarks column against the plots concerned. The principle followed in this case was to have one khata for the entire holding covered by one title-deed.

The details of pre-settlement inams as noted in the minor settlement final records were not self-contained, viz., at places the word "phaisal" alone was noted in the status column. In some cases the word "Inam" only was noted. In the major settlement records the pre-settlement inams were distinctly noted as such, i.e., "pre-settlement enfranchised Brahmadaya inam"and "pre-settlement unenfranchised debadayam inam" etc., the special incidents attached to each, if any, was noted in the appropriate column of the khatian.

A separate field register was prepared for pre-settlement minor inams under khewat No. 2A. In the khatians the survey numbers were entered with simply the description that they were inam lands with no other details. The separate field register contained all other particulars of such lands. The field registers did not form part of the record-of-rights and were not published. So the inamdars who were mostly actual cultivators could not know anything about their lands. As these lands did not form part of the estates, the inamdars, even if they were actual cultivators, had no occupancy right and were not, therefore, entitled to khatas. The total area of such lands as recorded in this settlement is 40,522-22 acres.

Whole inam villages are otherwise known as major inams. A pre-settlement whole inam village in order to qualify for "estate" does not necessarily mean that all the lands of the village must form subject-matter of the grant. One has to look to the wording used in the grant. If it is expressed to be a named village the area covered by the grant shall be deemed to be an "estate' under explanation (*1*) to section 3(2) (*d*), notwithstanding that it did not include certain lands in the village of that name which have already been granted on service or other tenure or been reserved for communal purposes. Subsequent partition among the grantees or their successors-in-title does not affect the character of the "wholeness" of the inam village and in such cases they were given batta khewats of khewat No.1. If a portion of the inam village has been resumed by the Government, the remaining portion is also regarded as an "estate" and the resumed portion is converted into ryotwari tenure.

Pre-settlement major inams became "estates" under Act XVII of 1947 and the inamdars were, therefore, given khewat No.1. Their tenants were given ryoti rights, if they were not tenants of thier private lands, although they were mostly paying kind rent of half the gross produce. They were treated like any other "estates" except that the lands under their khas possession were premsumed to be their private lands (*see* also para. 20 of Chapter III). There were 385 pre-settlement whole inam villages dealt with in this major settlement operation treating them as separate estates, out of which the High Court and the Civil Court have since declared that the following inam villages are not "Estates" under the Madras Estates Land Act:—

PARLAKIMEDI TALUK

| | | |
|---|---|---|
| (1) Champaniguda | .. | In Civil Suit |
| (2) Garabandha | .. | In High Court writ |
| (3) Katalakavita | .. | Ditto |
| (4) Jiludipadu | .. | Ditto |
| (5) Gokula | .. | Ditto |
| (6) Singipur | .. | Ditto |

KODALA TALUK

| | | |
|---|---|---|
| (7) Digapada Jaganathpur | .. | In High Court writ |
| (8) Chadhiapada Krishandaspur | .. | Ditto |
| (9) Jamadeipur | .. | Ditto |
| (10) Chachina Jaganathpur | .. | Ditto |
| (11) Bira Krishna Sasanapur | .. | Ditto |
| (12) Syamasundarapur | .. | Ditto |
| (13) Sebatideipur | .. | Ditto |
| (14) Babarapur | .. | Ditto |

CHATRAPUR TALUK

| | | |
|---|---|---|
| (15) Burtuli | | In High Court writ |
| (16) Hundata | .. | Ditto |
| (17) Jaganathapur No.76 | .. | Ditto |
| (18) Balata | .. | Ditto |
| (19) Khajpalli | .. | Ditto |
| (20) Ranajhalli | .. | Ditto |
| (21) Jaganathapalli No.79 | .. | Ditto |
| (22) Khasalapalli | .. | Ditto |
| (23) Rajabalapalli | .. | Ditto |
| (24) Sriramachandarpur | .. | Ditto |

BERHAMPUR TALUK

| | | |
|---|---|---|
| (25) Kaithapalli | .. | In High Court writ |
| (26) Lanjia | .. | Ditto |
| (27) Manahara | .. | Ditto |
| (28) Dabhara Purushotampur | .. | Ditto |
| (29) Dhanyarasi Sasan | .. | Ditto |
| (30) Rajamanipur | .. | Ditto |
| (31) Tentulia Kulamanipur | .. | Ditto |
| (32) Lokanathapur Sasan | .. | Ditto |
| (33) Ramachandrapur | .. | Ditto |
| (34) Sundarabalava Jagadevapur | .. | Ditto |
| (35) Sūna Khalla | .. | Ditto |

| | | |
|---|---|---|
| (36) Radhadeipur | .. | In High Court writ |
| (37) Purusotampur | .. | Ditto |
| (38) Dayanidhipur | .. | Ditto |
| (39) Gopalakrishnapur alias Kamasasan | .. | Ditto |

(*ii*) *Post-settlement, subsequent or Darmila inams*—Post-settlement inams come under two categories, viz., post-settlement major inams and post-settlement minor inams. The former category covers grant of whole villages and the latter covers grant of lands of a part of the village. Post-settlement whole inams of irresumable nature have been treated as Estates under section 3(2) (*e*) of the Madras Estates Land Act and post-settlement whole inams of resumable nature and post-settlement minor inams have been treated as parts of the parent estates. In the beginning, no differentiation between resumable and irresumables was made. But Government ordered that villages which constituted separate estates had to be notified separately while for villages which did not constitute separate estates, issue of separate notification was not necessary. So these two categories of post-settlement whole inam villages had to be differentiated so that notification with regard to final publication of record-of-rights and settlement of rents could be issued (About issue of khewats to these inamdars *see* para. 27). Enquiries were made in respect of all major darmila inams (there were 150 such villages) taken up in the Major Settlement Operation and a decision was taken as to which of the inam villages were resumable and which irresumable and orders were passed by the Settlement Officer in respect of all these villages. But since final publication had already been done in 53 villages by the time Government orders were received and in the remaining villages objection hearing had been completed, the records were left as they were. Necessary correction in the khewats was decided to be done by starting proceedings under section 172 of the Madras Estates Land Act. The statistics collected show that khewats have been given wrongly to resumable inamdars in 59 cases. After abolition of the "estates" the distinction between resumable and irresumable whole inam villages has lost its significance as all khewats will thereafter come under khewat No.I of the "Orissa Sircar". The Tahasildars have since filed petitions before the Board of Revenue for effecting necessary corrections in the records under section 172 of the Madras Estates Land Act. They are awaiting disposal by the Board.

The following kinds of post-settlement inams were noticed:—

(*a*) Inams granted to religious or charitable institutions and for their serivces, (*b*) personal or subsistence inams and (*c*) inams granted for service to be rendered to the land-holder or to the village community. The land-holder's right to grant darmila inams of classes (*a*) and (*b*) was curtailed under the provisions of the Impartible Estates Act (Act II of 1904). Under that Act the proprietor of an Impartible Estates was incapable of alienating or binding by his debts, such estate or any part thereof beyond his own life-time unless the alienation was made, or the debt incurred, under circumstances which would entitle the managing member of a joint Hindu Family not being the father or grand-father of the other co-parceners to make an alienation of the joint property or incur a debt, binding on the shares of the other co-parceners, independently of thier consent. But the proprietor of an Impartible Estate was authorised to grant sites for public charitable and public religious institutions and to grant leases of home-farm lands for terms not exceeding fifteen years. Under the provisions of section 3 (16) (*c*) of the Madras Estates Land Act service inams granted by the land-holders are quite legal, if granted rent-free or on quit-rent before the passing of the Estates Land Act or if granted rent-free after the passing of the Estates Land Act. (All the ancient zamindary estates of Ganjam excepting Athagada were impartible under Act II of 1904).

Darmila inams of classes (*a*) and (*c*) cannot be alienated, but inams of class (*b*) can be alienated subject to the conditions of the grant. Class (*c*) is nothing but ordinary jagirs of North Orissa granted by the zamindars for service to themselves or to the community.

Illegal alienations were recorded in the same way as illegal alienations in pre-settlement inam tenures but no report to the District Collector was necessary for these alienations. In the case of inams under class (*c*) the individuals actually performing the services and recognised by the land-holder were recorded and partitions without the land-holder's consent among the members of their families were ignored.

(Holdings which are by origin ryoti were not treated as service inams if the land-holder was found to have commuted the rent payable for the holdings into service. These holdings were treated as ryoti and the legally payable rent—recorded along with a note in the special incidents column that the rent was not paid as the ryot rendered service. In some cases the word " ଭୃତ୍ତି " has been noted in the legally payable rent column).

The records of minor settlement operations did not show the distinction clearly in respect of Darmila inams of different classes. In the Major Settlement Operation all Darmlia service inam lands were recorded with sufficient details and the details of specic services were distinctly noted in the special incidents column of the khatian.

I give below an exhaustive list of Darmila inams found during the course of settlement operation in this district :—

(1) Karji service inams
(2) Karnam ditto
(3) Washerman ditto
(4) Carpenter ditto
(5) Blacksmith ditto
(6) Barbar ditto
(7) Paika ditto
(8) Potter ditto
(9) Dandasi ditto
**(10) Debadaya inam**
**(11) Brahmadaya inam**

(12) Mokhasa inam
(13) Personal inam
(14) Khoraposa inam
(15) Bhalloki inam
(16) Anugruhi inam
(17) Jagiri inam
(18) Mazkuri inam
(19) Bahumati inam

(*iii*) Description of some of the peculiar types of inams (both pre and post-settlement) found during preparation of record-of-rights is given below :—

(*a*) *Mokhasa inam and Jagir inam*—Pre-settlement Mokhasa inams are found in Parlakimedi Estate. Post-settlement Mokhasa inams are found in Parlakimedi Estate and Sanakhemedi Estate. Post-settlement jagir inams are found in Athagad Estate. Mokhasa legally implies a service tenure but in fact no service was rendered to the land-holder.

(*b*) *Pre-Settlement Setho inam*—This is an inam of distinction granted to respectable persons for some good work. These were found in Biridi Estate.

(*c*) *Mazkuri inam*—This type of inam is only one of its kind in Bodokhemundi Estate and is Darmila in nature and was granted for village services. This was held to be irresumable in nature.

(*d*) *Bahumati inam*—This is an interesting type of Darmila minor inam granted as a reward. This is the only one of its kind granted by the Zamindar of Athagada Estate to one Madhu Sahu of Arakhapur village for having settled a boundary dispute between the Zeroyati village of Arakhapur and inam village of Patnapalli be marching on foot along the boundary.

(*e*) *Khoraposh inam* (*Post-settlement*)—These are subsistence inams and were found in Sheragada, Palur, Beridi and Badakhimidi Estates.

(*f*) *Chautha inam*—In Sanakhemedi Estate there were some cases of chautha (one-fourth) inams, the mela varam right in respect of one-fourth of the share of the land being granted to the inamdar and another one-fourth being reserved to the Estate. In these cases the lands were cultivated by tenants having kudivaram right and they paid shares of produce rent according to the shares delineated above to the inamdar and the Estate.

(*g*) *Resumed inams*—These lands were once minor pre-settlement inam lands but since resumed but no patta on ryotwari status had been granted by the Collector. These lands were recorded as resumed inam and no rent settlement of these lands was done as these were not estate ryoti lands, the quit rent and kattubadi being noted as usual. An area of 227·10 acres was recorded under this status.

(2) *Kami Jiroyati, Nala Balka and Chapamoni lands*—These are excess over inam lands detected by the land-holder. These were recorded as ryoti if not in the possession of the land-holder and as parityakta-o-bedakhali ryoti if in the possession of the land-holder.

29. *Ryoti*—A "ryoti" is defined in section 3 (15) of the Madras Estates Land Act. As all ryots have got occupancy rights under the provisions of section 6 (1) of the Madras Estates Land Act, no entry is required to be made in the record-of-rights to show if the ryot has occupancy right or not. Ryoti right can be acquired in a ryoti land by occupation for a continuous period of 12 years or by being admitted to it by a land-holder.

Any person found in agricultural possession of any ryoti land (i.e., any cultivable land in the estate excluding private land, communal land called poramboke and service land) was recorded as a ryot in column 4 of the draft khatian under ryoti status, if he was paying rent. 3,50,626·87 acres were recorded under this status including acres 673·73 in respect of which rent was commuted to service. If he could not show any proof of payment of rent or of land-holder's consent to his occupation of land and he had been in possession of the land for 12 years, he was also recorded as "ryot" under "ryoti" status, but a separate ryoti khata called "Jamadharya jogya ryoti" meaning ryoti land liable to assessment was given to him. 37,018·29 acres were recorded under this status. The following classes of lands were also ryoti lands as defined in the Act, but separate khatas were prepared for them:—

(*i*) *Lands in cultivating possession of the land-holder other than private lands*—A parityakta-o-bedakhali khata (his status was recorded in column 4 of the draft khatian without the name of the land-holder. If a person was in unauthorised cultivating possession of any ryoti land for less than 12 years, he was not given a separate khata, but his possession together with the year of possession was recorded in the remarks column of the plot concerned either in the "abada jogya anabadi" khata or in the parityakta-o-bedakhali khata, as the case may be. 62,560·45 acres were recorded as cultivable waste lands and 922·52 acres as encroachments.

30. *Pattadar*—These were once minor pre-settlement inam lands but since resumed and pattas granted by the Collector on ryotwari status. These lands were recorded under pattadari status. These were distinguished from ryoti lands of the Estate. No rent settlement was done in respect of such lands as these were not estate ryoti lands. 383·75 acres were recorded under this status.

31. *Intermediary interest*—Madras Estates Land Act does not recognise any tenure-holder. During settlement operation some cases came to notice in which the intermediary who received rent from the ryots

could not be treated as land-holder under the Madras Estates Land Act nor it was possible to treat him as a ryot. The conditions of grant embodied in the lease deed was so vague that it was not possible to bring him under any of the above classes. Although they were comparable to tenure-holders of North Orissa, as the Madras Estates Land Act did not recognise such a tenure, it was not possible to classify him as such. Under the Madras Estates Land Act under section 3(2) (*e*) where the grant of a permanent under-tenure was found to be irresumable, the holder thereof was treated as a land-holder but where the tenure was resumable in nature it was treated as part of the parent estate. So there was some difficulty in recording the exact tenure of the land in the settlement records. The decision of the Revenue Commissioner in Radhamohanpur case solved the difficulty to some extent. According to the interpretation of the Revenue Commissioner in Revenue case No. 23 of 1944, dated the Ist April 1948, a grant of this nature which was otherwise called Saswitaguta lands obviously constituted a permanent lease which gave right to the lessee to reclaim and enjoy the vacant lands.

This case arose in village Radhamohanpur in Chikiti estate in which one Shri Ramesh Ch. Samanto was the petitioner. He purchased the right from another. This was a revision petition under section 172 of the Madras Estates Land Act arising out of the order of the Collector (Assistant Settlement Officer), dated the 20th November 1941 whereby the petitioner's request for being recorded as a land-holder for an area of 169·44 acres out of the total of 174·97 acres of the village was refused. This village was granted by a registered deed, dated the 12th July 1921 by the then zamindar to Shri B. Virasa Lengam on Saswita Gutta for a rent of Rs. 250 a year. Subsequently an area of 5·53 acres belonging to the deity Shri Swapneswar Mahadeb was excluded from the grant and the rent payable was reduced from Rs. 250 to Rs. 242. Shri Ramesh Samanto, the petitioner purchased the interest by a registered deed of 1932. There were three categories of lands in the village. An area of 44·56 acres was in occupation of ryots, an area of 14·28 acres was recorded as poramboke and rest of the area of 109·51 acres was in occupation of the petitioner. The Revenue Commissioner held that the petitioner was a ryot in respect of the lands under his occupation covering an extent of 109·51 acres, but in respect of the lands under possession of other persons, he held an intermediate land-holder's right. It was ordered that an entry should be made in the remarks column of the khewat of village Radhamohanpur that the petitioner held an intermediate land-holder's interest as a permanent lessee in respect of the lands under possession of the ryots subject to payment of Rs. 242 to the zamindar and a cross reference to this entry should be made in the respective khatians in the appropriate columns. A copy of the judgement is given in the Appendix III. The mode of recording such lands as embodied in the order of the Revenue Commissioner in the above case was followed in all such cases in record-of-rights operation not only in Ganjam but also in Koraput.

32. *Abada-ajogya-anabadi*—Abada-ajogya-anabadi means waste lands which cannot be cultivated on account of either physical impossibility or legal restrictions. In the minor settlement operation, lands, named as "Dhimira, Pathara, Chanchada, Parbata, Pathar Chatana, Bana (forest containing timber as opposite to Jhati banno, i.e., bushy forest), nadi (not affording irrigation facilities) were noted as poramboke. In the Major settlement operation, these were recorded in abada-ajogya-anabadi khata. 1,76,204·25 acres have been recorded as uncultivable waste.

33. *Hetta lands*—(*See* also paragraphs 19 and 20 of Chapter III)

It is a term used to mean the land-holder's private lands as defined in section 3(10) of the Madras Estates Land Act. These lands were recorded as land-holder's private lands and the status of the khata was recorded as "private land" in column 4 of the draft khatian without the name of the land-holder, as this right is incident to the proprietory right only and whoever is the land-holder as noted in the khewat takes the private lands along with the proprietory right (under C. P.s ystem, this is not the case as the 'Sir" or private lands are retained even when the estates pass away from the hands of the proprietor). The Madras Estates Land Act deals with mainly the relation of the land-holder and the ryot in respect of "ryoti" land. Section 19 of the Act states that except as otherwise specially provided in this act, the relations between a land-holder and a tenant of his private land are not regulated by the provisions of the Act.

Apart from the specific circumstances stated in the definition in section 3 (10) which have to be proved to satisfy that a particular land is private land, other tests have been laid down in various decisions, on proof of which a land may be held to be private land. One has, of course, to start with the presumption that lands are not private lands until the contrary is proved. But according to provision of Orissa Act XVII of 1947 if on the 12th September 1946, the land in the possession of an inamdar land-holder, whether situated in one inam village or in different inam villages, did not exceed five acres in extent, such land shall be presumed to be the private land of the land-holder until the contrary is proved. The various tests which will prove the contrary are (*i*) that the land-holder has cultivated himself and intends to retain as resumable for cultivation by himself even when from time to time he demisses it for a season, (*ii*) that land was before 1-7-1898 specifically let as private land, (*iii*) that by local custom lands were always treated as private land and (*iv*) by other evidence. Under this head "other evidence" decisions have laid down various circumstances as indicating that the lands are private, such as (*a*) changes in the personnel of the tenants from time to time, (*b*) changes in the amount of rent payable, (*c*) changes in the system of payment, i.e., sometimes in grain, sometimes in cash and so on, (*d*) limited periods of enjoyment by the tenants, (*e*) periodical leases by the proprietor in public auction to the highest bidder, (*f*) simultaneous enjoyment of certain rights by the land-holder, such as enjoyment of the usufruct of the trees on the lands, etc., (g) issue of separate pattas known as Sagubadi pattas unlike the pattas granted to regular ryots, (*h*) construction of wells by the proprietor with the intention of cultivating the lands himself, (*i*) admission of tenant in documents to the effect that the land-holder has the absolute title to the lands and so on.

The legal incidents which appertain to private land in an estate essentially different from those annexed to ryoti land. The differences are fundamental. The Act draws a sharp distinction between the two classes of lands. Private land is, to borrow a word from the English law of Real property, the free hold of the land-holder over which he has absolute unrestricted dominion. He can deal with it in any manner he likes, enter into any kind of contract he chooses, and to create in it any form of tenure he pleases.

The policy of the Act in section 8 (3) appears to be to restrict encroachments by the land-holder on ryoti lands and appears to be opposed to the augmentation of the land-holder's private lands, except under special circumstances. On the other hand, by expressly providing for conversion of private lands into ryoti lands under section 181, the intention appears to be to facilitate the increase in area of ryoti land in the estate. Recording of private lands created difficulty as land was always claimed to be private. Claims for converting private lands into ryoti lands and vice versa were keenly contested in all cases especially in some of the Major Estates like Badagada, Sanakhemedi, Badakhemedi and Dharakote and almost in all inam estates. In the Sanakhemedi estate there were a few cases in which the estates granted private lands as Darmila inam but such inams were not recognised as under the Madras Estates Land Act the land-holder can convert his private land into ryoti land only. The land-holder's right to lease out private land and to convert it into ryoti land was curtailed under Act I of 1948 and so any lease given after the 1st April 1946 without the permission of the Collector was not recognised. 3,860·51 acres have been recorded as private land in the zamindaries and 45,324·13 acres in the inam estates.

34. *Poramboke lands*—These are communal lands as defined in section 3(16)(*a*) and (*b*) of the Madras Estates Land Act and are governed by the provisions of sections 20, 20-A and 20-B of the Act. In the minor settlement records the word "poramboke" was noted in status column or kisam column—the remarks column showing the description of the land such as "Danda", "Rasta", "Village Site", "Bijesthali", "Khala", etc. The word 'Poramboke' is a Tamil term which means excluded places or outside tracts and was being loosely used in Madras for all uncultivable waste lands. In the major settlement opeartion poramboke khata has been prepared only for communal lands, the kisam column showing the description of the land. This is analoguous to sarbasadharan khatas of North Orissa. For other types of uncultivable waste lands another khata called abada ajogya anabadi khata has been prepared as mentioned in para. 32. According to Government orders, the poramboke lands were at first tentatively placed under the Government khewat pending final decision of the Government whether poramboke should be treated as Government land or zamindari land with reference to zamindar's sanad and kabuliat according as the reversionary right in these lands vested in the Government or the zamindar. In a subsequent communication Government decided that till a final decision on the question of reversionary right on poramboke lands was reached, they should be kept in a separate khatian. Accordingly the poramboke lands previously recorded in Government khewat were excluded from the Government khewats and kept only in a separate khatian, leaving the column meant for showing the land-holder blank. Under another order of the Revenue Department the District Board roads which were previously kept in a khatian under the Government khewat were also excluded from the Government khewat and were included in the poramboke khatian.

When poramboke lands were at first tentatively recorded under Government khewat, the Raja Bahadur of Khallikote raised an objection saying that these lands formed part of the estate lands, the reversionary rights vesting in the estate and it was, therefore, not proper to take them out of the estate khewat and keep them under Government khewat. This question was a subject of much heated discussion and correspondence at various levels. The Revenue Commissioner in his review proceedings No. 536—XVIII-139/44-L.R.S., dated the 12th August 1944 (printed as Appendix IV) finally decided as follows: "All lands found by the settlement authorities to be poramboke shall be excluded from the land-holder's khewat and it must be made clear in the village khewat that the porambokes are not the anabadi of the land-holder and have not been included in any of the khewats, either those of the landlord or those of the State". The question of reversionary right in individual cases was, therefore, left to be decided by the District Collector under section 20-A of the Madras Estates Land Act, as the Settlement Court was not the proper forum to decide such cases. After abolition of the estates all poramboke lands will henceforward be included under Khewat No. I of the "Orissa Sircar".

In Ganjam, village site has been mapped in one Block without detailed survey and recorded in poramboke khata unlike North Orissa where individual occupations within village-sites are separately mapped and recorded within the occupancy holdings of the raiyats. As village site is excluded from the category of ryoti land, no assessment on occupations within village sites is permissible. But where house-sites formed part of the ryoti agricultural holdings they were assessed at the rate for dry lands according to the classification of the land made in the record-of-rights. Simply the existence of houses on ryoti agricultural holdings did not convert the land into poramboke but they continue to be ryoti.

35. *Extent of land of different categories*—Appendix V shows the extent of private lands, parityakta-o-bedakhali lands, ryoti lands (cash rented, produce rented, niskar and liable to assessment) and poramboke lands recorded in different stages including inam estates in the major settlement operation.

36. *Rights over trees*—This did not present any difficulty in Ganjam as the rights of the ryots over trees standing on their holdings had been recognised as early as 1908 by the Madras Estates Land Act whereas similar rights were conferred on occupancy raiyats in Orissa Tenancy Act area as late as 1938, which explains why there was difficulty regarding trees in the last settlement of Orissa. As right over trees in one of the incidents of occupancy right of a ryot, it was not considered necessary to specifically mention this in the record-of-rights. The Estates Land Act does not contemplate a patta for trees alone being held as a holding. The rent payable under a patta for trees alone is not rent within the definition of section 3(11) of the Act.

During the course of settlement operation, however, it came to notice that in Surangi estate in some villages it had been found that the estate was realising one anna as Panu (cess) per tree standing in poramboke and waste lands and that had been recorded in the remarks column of the final record-of-rights. In some ryoti khatians, the fact of payment of panu of Re. 0-1-0 per tree was noted in the remarks column of the khatians. In some cases it was found that the estate had assigned topes on ryoti status and recognised the same only on payment of panu of 1 nna per tree. This had been recorded in the final record-of-rights. In all these cases, proper enquiry as to the existence of the right which by custom or by contract had arisen before the passing of the Madras Estates Land Act was made before framiug the record.

37. *Easement rights*—Rights-of-way or rights of use of water exercised by individual persons or by the public in lands not recorded in their names was noted against the remarks column of the plots in which such rights were exercised.

38. *Encroachment on communal lands*—Without the written orders of the District Collector, no communal lands or tank bed, etc., can be assigned or used for any other purpose. Section 21 of Estates Land Act enbales the Collector to give effect to that provision by summary eviction of the encroacher, wherever diversion of such lands for other purposes has been made without his permisssion. The illegal or forcible possession of the encroacher and the year of his possession were noted in the remarks column of the record-of-rights unless the diversion of such lands for other purposes had been made with the permission of the Collector of the district. In all such cases reports were submitted to the District Collector for taking such action as he thought proper. 2,345·95 acres were recorded as encroachments on communal lands.

39. *Classification of cultivated lands*—In the major settlement operation the nature of the soil, situation of the land, distance from the irrigation source, capacity of the land to retain moisture, nature of the crop, etc., were taken into consideration in classifying the lands. The lands have been classified into three main classes, viz., wet, rainfed and dry and each of these have been further subdivided into three sub-classes or tarams according to the safety of the crops. Lands the crops of which are seldom liable to damage due to excessive rainfall or scanty rainfall have been put in the first class. Wetlands where crops fail in yerars of scanty rainfall as well as in years of excessive rainfall have been placed in the second class. Rainfed and dry lands that are not capable of retaining moisture for any length of time after the rains cease and are consequently unfit for growing any valuable crops have been put in the third class. Lands lying midway between the first and the third have been put in the second class. The classification was done by the amins, checked by the Inspectors, Kanungos and Assistant Settlement Officers. No special classification was made except that the topes were classified under "other classes" in column 18 of the draft khatian.

These details were recorded in the preliminary record-of-rights but it was held by Government that taram classification should not form part of final record-of-rights and consequently the tarams were dropped from the final records but rents were calculated on the information in the taram register and the rates of rent were noted below the plots indicating the taram in question in the final record-of-rights. The extent under different classification of lands as recorded in this settlement is as follows:—

| Wet | Rainfed | Dry | Total |
|---|---|---|---|
| Acres | Acres | Acres | Acres |
| 2,05,058·29 | 1,79,414·92 | 1,38,335·13 | 5,22,808·34 |

40. *Writing of caste in the record-of-rights*—According to the order of the Government contained in Book Circular No. 20, dated the 27th November 1949 caste previously written in the record-of-rights was deleted from the record-of-rights but according to Government order contained in Book Circular No. 26, dated the 6th September 1952 the order regarding caste was not made applicable to the record-of-rights on the ground that in certain cases rights on land depended upon the caste of a person particularly in the case of inams and persons belonging to the Scheduled Tribes. Accordingly, caste was restored in the record-of-rights and continued to be recorded in the record-of-rights subsequently prepared.

41. *Irrigation*—(*i*) Notification under section 165 of the Madras Estates Land Act required that it should be mentioned in the record-of-rights whether the land was irrigated or unirrigated and further that a record of irrigation rights showing all rights and obligations of each ryot and land holder in respect of (*i*) the use by the ryots of water for agricultural purposes and (*ii*) the repair and maintenance of irrigation works should also be prepared. Accordingly, an irrigation khatian (called "Record of Irrigation Rights") was perpared and finally published as it also formed a part of record-of-rights. The name and plot number of the irrigation source of all wet lands were mentioned in column 14 of the draft khatian corresponding to column 8 of the final record-of-rights.

(*ii*) The rights and liabilities of the ryots with regard to irrigation in the zamindary areas completely differ from those in the ryotwari areas. Chapter VIII of the Madras Estates Land Act gives effect to the immemorial duties of the zamindar to maintain public tanks for general benefits, particularly for facility of irrigation and progress of cultivation. The Act as amended in 1934 made effective provision for compelling the land holder to execute repairs to irrigation work, imposing restrictions on the use of anicut and making provision for reclassification of lands due to irrigation. This is with regard to the irrigation work which were situated within the estate and had been constructed either by the ryots or by the land-holder. In Ganjam besides numerous irrigation works which were constructed by the zamindars (all of them minor except at Parlakhimedi where there were some medium projects) the main source of irrigation was the Government irrigation source of Rushikulya and the Jayamangal Canal System. The Rushikulya Canal System is the most important irrigation work in the district. It irrigates Ghumsur, Aska, Berhampur and Chatrapur taluks and was constructed as a famine measure at a cost of about Rs. 50 lakhs in the years 1892—1901. The system commands 33 Government and 8 inam villages of Ghumsur taluk, 21 Government and 36 inam and 131 zamindary villages ot Aska taluk, 107 Government, 17 inam and 15 Zamindary villages of Berhampur taluk and 64 Government and 18 inam villages of Chatrapur taluk. It irrigates about one lakh acres. (Details of this canal will be given in the Final Report of the ryotwari settlement). The main irrigation system of Khallikote is the Kharkhari stream which irrigates about 20 villages with an ayacut of about 5,000 acres. In Athagada there are 3 hill streams namely, Baguda, Dhannai and Jagati which irrigate a large percentage of wet lands by constructing some reservoirs. Mallada, Tampara and Kharkhari canal irrigate about 10 villages in Biridi estate. The Rushikullya system irrigates the lands of all the four zamindaries situated in Ghumsur Division Dharakot, Seragada, Sanakhemedi and Bodagada and several proprietory estates. Bodagada zamindary does not contain any good irrigation source and is dependent mostly on rainfed tanks. The Ghodahada river runs through Sanakhemedi estate and there is an anicut at palaspur and several villages are irrigated by this river. This Ghodahada River serves as the irrigation source for many villages of Bodokhemedi estate. Narayana Sagar in Jorada estate and Mukund Sagar and Bag Nala in Surangi estate are also some good irrigation sources. There are some other small irrigation sources in the estate areas taken up under the settlement operation.

They are not important. The extent of area recorded as wet (irrigated) in the settlement operation in different estate areas and inam villages situated in different taluks is given below:—

*Irrigated area in Major estates*

| Serial No. | Name of estate | Total area of the estate (excluding porambokes) in acres | Totalareairrigated in acres | Remarks |
|---|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) |
| (1) | Chikiti .. | 45,004·06 | 19,529·16 | |
| (2) | Biridi .. | 32,246·78 | 5,705·66 | |
| (3) | Sheragada .. | 15,216·96 | 4,879·33 | |
| (4) | Jarada .. | 10,080·48 | 4,162·75 | |
| (5) | Paluru .. | 14,266·32 | 671·61 | |
| (6) | Aska Malukdari .. | 11,779·09 | 3,877·74 | |
| (7) | Humma .. | 4,202·95 | 1,718·32 | |
| (8) | Sanakhemidi .. | 61,104·67 | 15,879·51 | |
| (9) | Surangi .. | 23,208·56 | 5,230·38 | |
| (10) | Athagada .. | 1,15,728·21 | 33,306·40 | |
| (11) | Khallikote .. | 10,414·22 | 27,181·25 | |
| (12) | Bodagada .. | 40,366·82 | 4,614·19 | |
| (13) | Badakhemidi .. | 77,492·47 | 19,873·78 | |
| (14) | Dharakote .. | 56,084·54 | 17,666·05 | |
| | Total .. | 6,10,346·13 | 1,64,296·13 | |
| | *Irrigated areas in inam villages of different Taluks* | | | |
| (1) | Berhampur taluk .. | 28,118·83 | 9,684·21 | |
| (2) | Chatrapur taluk .. | 74,116·36 | 8,494·24 | |
| (3) | Kodala taluk .. | 28,362·83 | 6,822·47 | |
| (4) | Aska taluk .. | 40,013·10 | 6,033·36 | |
| (5) | Ghumsur taluk .. | 13,218·27 | 4,729·25 | |
| (6) | Parlakhimedi taluk .. | 17,397·52 | 4,998·63 | |
| | Total .. | 1,51,226·91 | 40,762·16 | |
| | Grand Total .. | 7,61,573·04 | 2,05,058·29 | |

(*iii*) The law regarding water-rate in Ganjam is as follows :—

Unlike North Orissa there was no law in Madras for realisation of water-rate. In North Orissa the Bengal Irrigation Act, 1876, provided that all persons accepting water for irrigation from canals constructed by Government must pay water rate fixed by Government. This water rate in North Orissa is realised by P. W. Department who maintain and repair the canals. But under the Madras system which is followed in Ganjam the water rates are merged in the rent of the lands and are collected by the staff of the Revenue Department whereas the maintenance, improvement and repair work are done by the PublicWorks Department, that is the Irrigation Department. In ryotwari areas of Ganjam no water rate is separately charged for lands registered as wet under particular

irrigation sources. The rate of rent for wet lands was fixed on usual settlement principles which automatically took into consideration, the extra benefits arising out of irrigation and a consolidated rate of rent was fixed. The Madras Irrigation Cess Act, 1865 (Act VII of 1865) provided for differential water rates for water taken to lands not registered as wet and also for realisation of water rate from the lands in estate areas. In ryotwari areas when dry and rainfed lands are irrigated, the ryots have to pay water cess separately to Government besides the assessment fixed on the land. The principle here is that when any land recorded in land records as unirrigated, is irrigated from a Government source, water charge should correspond to the difference between the irrigated rate of assessment and the existing rate of rent on such land. There are also other detailed rules regarding single wet crop, double wet crop etc., and they are not relevant here.

When water is supplied from Government irrigation source to lands in zamindary and whole inam villages the water cess is charged at the following rates as per Appendix I, para C(II) to Board's Standing Order 4.

| | Per acre Rs. As. Ps. |
|---|---|
| (1) Sugarcane, betel .. | 6-0-0 |
| (2) Plantain, Turmeric and Elephantyam .. | 5-0-0 |
| (3) Paddy, first crop .. | 4-0-0 |
| (4) Paddy, second or third crop .. | 2-0-0 |
| (5) Onions, Garlic, wheat, Chilli (Garden crop), Sweet potatoes (Garden crop) | 3-0-0 |
| (6) Tobacco, Summer ragi, chilli (field crop), sweet potatoes (field crop) pendalum, brinjal, groundnut, and jute. | 2-0-0 |
| (7) Gingelly, Greengram, Mustard, Bengalgram, Coriander, Winter Ragi, Vegetables (cucumber, melon, etc.) | 1-0-0 |

Three-fourths of the above rates are charged when water is taken from third, fourth or fifth class sources of irrigation. When water used for irrigation cannot be obtained without raising it by baling or by some mechanical contrivance, the water cess charged is three-fourths of the above rate. This is the "occupier rate", i. e., a fixed rate charged on the area actually irrigated and which usually varies with the nature of crop or crops.

These rates were being paid by the landholder and the ryots concerned in equal proportion, i. e., half by ryot and half by land-holder. The ryots used to pay this in addition to the assessment fixed for their land. For taking water from the irrigation sources constructed and/or repaired or maintained by the land-holder or by the land-holder and the ryots jointly, they were not to pay anything extra as the rent was already high, being fixed on the halfgross principle whether in cash or in kind and the land-holder automatically got the benefit of extra yield.

(*iv*) During the settlement operation in the ex-Estate areas the lands under the ayacut of Rushikulya canal system have been recorded as wet according to actual state of fact on the ground. After abolition of the estates, the areas came directly under Government. Basing on the settlement records there was an agitation by the ryots of Sanakhemidi and Badakhemidi estates regarding payment of water tax for lands under the ayacut of the Rushikulya canal system. Their contention was that no water cess should be collected from the lands which were recorded in the record-of-rights as wet being irrigated by the Rushikulya canal system, as the rate of rent fixed for wet lands was a consolidated one as prevalent in ryotwari areas for lands registered as wet under Government irrigation sources. The Collector, Ganjam, took exception to the recording of lands as wet under the Rushikulya canal system and contended that the mention of Rushikulya canal as a source of irrigation for wet lands in the zamindari villages in the settlement records appeared to be a mistake committed by the Settlement Department as this was not an irrigation source maintained by the zamindar and taking advantage of this mistake the ryots of the zamindari areas were now agitating not to pay any water cess in respect of wet lands already registered in the settlement records under Rushikulya canal system. The matter was referred by the Collector to the Board of Revenue and the Board ordered as follows :—

"In the ex-zamindari areas, lands irrigated by the Rushikulya canals have been classified as wet and rent assessed at the wet rates of ryotwari area enhanced by 25 per cent. As the ryotwari tenants do not have to pay any water tax, the water tax is paid by the Revenue Department to the Irrigation Department by book adjustment. A similar arrangement should be followed in the ex-zamindariy areas. The ryots should not be made liable to pay water tax, in addition to paying rent at wet rates. Government have already accepted this principle. Please inform Public Works Department that no water tax, water cess or water rate whatever it may be called, is to be realised from the ryots in ex-zamindary areas. Payment to the Irrigation Department will be made by the Revenue Department by book adjustment. This will have to take effect from the 1st July 1954".

This order did not apply to lands using the water of the Rushikulya canal for irrigation, though recorded as wet under some other Irrigation source. Although no water cess is separately chargeable on lands recorded as wet, still under the Madras irrigation Cess Act, 1865, water cess is separately chargeable if water is taken for such land from any source different from the source registered as the source of supply of that land.

(*v*) A uniform law known as the Irrigation Act, 1959 (Orissa Act 14 of 1959) has been passed by the Orissa Legislature for levy of water rate and cess in the entire State of Orissa which will repeal the Bengal Irrigation Act, 1887, and also the Madras Irrigation Cess Act, 1865. It has not yet come into force in the district of Ganjam.

## CHAPTER V

### PREPARATION OF RECORDS

42. *Arrangement of blocks*—(*i*) In Chapter I. I have discussed how the idea of having a Major Settlement operation was mooted in the year 1937. By that time, Act XVII of 1947 declaring whole inam villages as estates had not been passed. So in 1938 for the purpose of the settlement operation, all the royti villages in different estates in this district were divided into three blocks, viz., A, B and C as follows:—

| | | |
|---|---|---|
| Block A | .. | Dharakote and Athagada estates |
| Block B | .. | Khallikote, Badakhimedi and Chikiti estates |
| Block C | .. | Sanakhimedi, Sheragada, Badagada, Surangi, Jarada, Palur, Biridi, Aska, Malukdari and a few other small estates. |

(*ii*) Block D had not then been formed. At first the estates previously surveyed were taken up. The survey land register and the maps had to be Collected from the collectorate or different estates and copies of the Survey Land Registers were prepared and then the villages were taken up for preparation of the record-of-rights. But many of the records were not received in time and hence, it was not possible to stick to the programme of the settlement operation by Blocks. Consequently the programme had to be revised and adjusted from time to time according to the availability of records. In 1942, due to the Second World War and the consequent emergency, the settlement operation had to be suspended. The programme of work was upset. After the resumption of the operation in 1947, Block D was formed and work was started in the royti villages not taken up before and in the inam villages. The total number of major settlement villages (i. e., those villages in which record-of-rights operation was taken up for the first time) and minor settlement villages (i. e., the villages in which record-of-rights had been prepared previously under the minor settlement opetation) is given below, estatewar.—

| Serial number | Name of the estate | Total number of villages in the estate. | Block A | | Block B | | Block C | | Block D | | Number of villages in which record-of-rights have been finally published. | Number of villages in whichrents have been confirmed under section 190(3) of M. E. L. Act. | Remarks |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Major | Minor | Major | Minor | Major | Minor | Major | Minor | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| 1 | Dharakote .. | 207 | 110 | 11 | .. | .. | 7 | 37 | 42 | .. | 207 | 190 | |
| 2 | Aska Malukdari .. | 29 | .. | .. | .. | .. | 27 | 1 | 1 | .. | 29 | 29 | |
| 3 | Sanakhemidi .. | 181 | .. | .. | .. | .. | 160 | .. | 21 | .. | 181 | 148 | |
| 4 | Sheragada .. | 39 | .. | .. | .. | .. | 30 | .. | 9 | .. | 39 | 34 | |
| 5 | Badagada .. | 166 | .. | .. | .. | .. | 129 | .. | 37 | .. | 166 | 148 | |
| 6 | Kotinada (Aska) .. | 1 | .. | .. | .. | .. | .. | .. | 1 | .. | .. | .. | |
| 7 | Athagada .. | 292 | 74 | .. | 64 | 76 | 8 | .. | 70 | .. | 288 | 262 | |
| 8 | Khallikote .. | 347 | .. | .. | 166 | 126 | 14 | .. | 41 | .. | 344 | 333 | |
| 9 | Badakhimedi .. | 227 | .. | .. | 120 | 24 | 33 | .. | 50 | .. | 227 | 196 | |
| 10 | Dwaragan .. | 1 | .. | .. | .. | .. | 1 | .. | .. | .. | 1 | 1 | |
| 11 | Chikiti .. | 151 | .. | .. | 93 | .. | 31 | .. | 27 | .. | 150 | 136 | |
| 12 | Surangi .. | 129 | .. | .. | .. | .. | 92 | 19 | 18 | .. | 129 | 113 | |
| 13 | Jarada .. | 59 | .. | .. | .. | .. | 24 | 29 | 6 | .. | 59 | 56 | |
| 14 | Inam estates of Berhampur taluk | 21 | .. | .. | .. | .. | .. | .. | 21 | .. | 20 | 10 | |
| 15 | Palur .. | 21 | .. | .. | .. | .. | 16 | .. | 5 | .. | 21 | 20 | |
| 16 | Bandatala Nuagan .. | 1 | .. | .. | .. | .. | 1 | .. | .. | .. | 1 | 1 | |
| 17 | Mohanadapur .. | 1 | .. | .. | .. | .. | 1 | .. | .. | .. | 1 | 1 | |
| 18 | Jharpadar .. | 1 | .. | .. | .. | .. | 1 | .. | .. | .. | 1 | 1 | |
| 19 | Biridi .. | 83 | .. | .. | .. | .. | 71 | .. | 12 | .. | 83 | 80 | |
| 20 | Humma .. | 8 | .. | .. | .. | .. | .. | 6 | 2 | .. | 8 | 7 | |
| 21 | Inam estates of Chatrapur taluk | 38 | .. | .. | .. | .. | .. | .. | 38 | .. | 38 | 12 | |
| 22 | Ghumsur .. | 50 | .. | .. | .. | .. | .. | .. | 50 | .. | 50 | 42 | |
| 23 | Parlakhimedi .. | 60 | .. | .. | .. | .. | .. | .. | 60 | .. | 60 | 19 | |
| 24 | Karabalua (Chikiti) .. | 1 | .. | .. | .. | .. | 1 | .. | .. | .. | 1 | .. | |
| 25 | Dubarakudi(Palur) .. | 1 | .. | .. | .. | .. | 1 | .. | .. | .. | 1 | .. | |
| | Total .. | 2,115 | 184 | 11 | 443 | 226 | 648 | 92 | 511 | .. | 2,105 | 1,839 | |

43. *Obstruction to the work*—(*i*) In the initial stage of settlement operation the people of the villages under settlement operation did not fully co-operative with the settlement staff. It was difficult to get accommodation for the staff in the mofussils. The Bihar and Orissa system of survey and preparation of record-of-rights was introduced in this district. The people of this district being accustomed to the method of work of South Indian Surveyors according to the Madras procedure and also to the manners and customs of the surveyors who remained in a village for a pretty long time, felt very difficult to accommodate themselves to the speedy methods of work and manner and customs of the Amins of North Orissa. In some cases the people of this district looked down upon the officers and staff of North Orissa as aliens. To relieve them of their distress and to counterbalance their difficulties, some Amins knowing both Telugu and Oriya languages were posted to assist them in their work and since then the difficulties experienced by the Oriya staff in bilingual area were eased to some extent. A year or two after the initiation of the settlement operation in Ganjam, people gradually got accustomed to settlement work and attendance of the people was rather fair. In Block D where the inam



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villages were taken up for preparation of record-of-rights both the inamdar who generally is not the resident of the village and the villagers did not co-operate with field staff and consequently the progress of work was held up at different stages. The non-co-operation of the people reached such a high pitch that in many cases labour for survey had to be engaged at Government cost. During the whole settlement operation, however, only a sum of Rs. 4,413-2-6 was spent on this account.

(*ii*) Sometime after the settlement work had been started in this district, Mr. P. T. Mansfield, I. C. S., the then Revenue Commissioner met the prominent people of this district in a conference and introduced Mr. F. E. A. Taylor, I. C. S., the then Settlement Officer-designate, to them and requested them to co-operate with the Settlement Department to make the operation a success. Mr. Mansfield was sadly disillusioned to hear some of them challenging Mr. Taylor's ability to deal with South Orissa Tenancy Laws. As a result of the discussion there, some officers who had previously worked in the southern districts were posted to work as Assistant Settlement Officers. The local Bar Association of Berhampur had great misgivings regarding the way in which the settlement operations would be conducted and the impact it would have on the people of the district especially on the people of the estates which had never been under any satisfactory record-of-rights and settlement operations. Added to this, the introduction of the Bihar and Orissa system of work which was considered foreign to the district, created suspicion in the minds of the intelligentia. The Bar Association, Berhampur, submitted a memorandum to the District Judge, Ganjam-Puri, in which a number of issues were raised. These were given wide publicity so much so that it was published in the *Amrit Bazar Patrika*, dated the 20th July 1939. The Rajah Bahadur of Khallikote also raised objections which were mostly a reiteration of the objections raised by the Bar Association. A summary of the objections raised by him is given below:—

(*a*) The Survey Land Register which was prepared long ago is not being brought up to date.

(*b*) The record-of-rights register followed by the Madras Survey Party and which was prescribed by the Madras Board of Revenue is being mutilated beyond recognition into three broad divisions such as (*i*) Khewat, (*ii*) Khatian and (*iii*) record of irrigation rights. A copy of the Khewat No. 2 (i. e., Government khewat is not being supplied to the estate. The subdivision sketches and measurements are not supplied. Khewat No. 1 was unnecessary as the zamindar was usually one. Samilat khewat is very rarely put to use. The introduction of the khatians is no improvement upon the Madras record-of-rights register inasmuch as the columns of the khatian require unnecessary information and omit essential entries regarding the rate of rent. The omission of the rate of rent against each survey number causes hindrance in the discharge of duties imposed upon the landholders under section 145 of the Act. The publication of a combined notification under the Madras Survey and Boundaries Act and Madras Estates Land Act is irregular. A large number of forms superseding the single Madras form introduces unnecessary confusion into the matter without effecting any improvement. All waste lands in the estates are being entered in the Government khewat although they do not belong to Government.

(*c*) The survey amins are paid on outturn basis and they are thus inclined to make numerous subdivisions and the increased cost of the settlement is to be borne by the landholders and ryots. The ryots for whose convenience subdivisions are made, should be made to bear the cost for the subdivision.

(*d*) Taram classification is not a part of the record-of-rights and ought not to have been published under section 166 as a part of settlement operation. Taram classification should not have been left mainly to the Amin but these should have been entrusted to the Assistant Settlement Officers.

(*e*) Lawfully payable rent should be noted in the record-of-rights instead of the existing rent.

(*f*) An extract of the record-of-rights register only is given to the landholder instead of a true copy thereof as provided in rule II of the statutory rules.

(*g*) The holding war abstracts and the Descriptive Memoir are not supplied although they form part of the record-of-rights, to the village karanam. The village karanam is only supplied with a survey land register and plan prepared by the Madras Survey Party and the new plans containing numerous subdivisons are not supplied to the village karanam. By this, the people will deprived of the opportunity of filing any objection against wrong subdivision.

(*h*) Issue of khatians to the holders of pre-settlement and all kinds of service inams are unauthorised and recognition of subdivisions in either of these inams is against law. The recognition of alienations of subsequent service inams would destroy the objects of the grants.

(*i*) Process fees can only be levied to carry out the orders of the Court. The levy of process fee by the Settlement Department is illegal as the Settlement Officer is not a Court.

(*j*) Survey is to be done under Madras Survey and Boundaries Act as per direction in section 164 of the Madras Estates Land Act but it is being carried under Bihar and Orissa Survey and Settlement Manual and procedure. Hence, the procedure contravened the provision of section 164 of the Madras Estates Land Act.

(*iii*) The Settlement Officer submitted a report to the Revenue Commissioner. The Settlement Officer's report exposed the hollowness of many of the objections raised by the Rajah Bahadur and the Bar Association as these were based on a misconception of some of the Bihar and Orissa procedure. Some of the points were pertinent and relevant and the procedure underlying them was amended where necessary as has been pointed out in Chapters III and IV. I shall simply make a passing reference to them here.

There was, it must be admitted, not much time at the disposal of the then authorities to study the Madras procedure and reconcile it with the Bihar and Orissa procedure which would have enabled them to adopt the best out of both the systems. Some of the objections raised were, therefore, relevant and they had to be duly considered and the procedure followed hitherto was changed to some extent as indicated below :—

(*i*) Taram classification which hitherto formed part of the record-of-rights was omitted from the final record-of-rights before final publication.

(*ii*) Minor pre-settlement inam lands were embodied in an inam register with full details, the khatians simply showing the plots as pre-settlement inams.

(*iii*) The Descriptive Memoir was not treated as part of the record-of-rights.

(*iv*) Realisation of process fee, as a measure of enforcing the attendance of parties during field work which was hitherto done generally in cases of non-attendance was restricted to cases where any individual failed to respond to the call of the Collector (Assistant Settlement Officer) requiring him to appear before him in person and to furnish him with any information which is considered to be in his possession. In such cases the Collector was required to issue notice to that individual directing his attendance before him at a time and place to be specified in the notice and when such a notice was issued, a process fee of annas twelve only was to be levied together with the actual charge which was incurred for service of the notice. Statutory rule 54 of the Madras Estates Land Act was amended to provide for this.

(*v*) The procedure of combined notice and notification for survey and record-of-rights, however, continued but this came in for severe castigation by the High Court in the Badagada writ case.

44. *Staff*—(*i*) *Training*—When settlement operations were started in this district, there was a great dearth of trained staff. So trained staff from North Orissa who had served in other settlements and many of whom were really competent were imported and with them the settlement work was started in this district. These persons did not have any knowledge of the Madras Laws and the Madras procedure which they took sometime to pick up. There was a chorous of protest from all sections of the public for employment of the people of this district in the operation. In order to satisfy the public demand and also to obtain the required number of trained personnel for settlement operation in this district, a training school was opened by the Collector under the supervision of the Settlement Officer for training of Amins and Inspectors. The selection of trainees was made jointly by the Settlement Officer and the Collector of Ganjam in some cases. The product of the training school which mainly consisted of the people of this district did not come up to the standard of North Orissa staff. But to satisfy the public demand, the best of the lot were selected and employed in settlement operation. Some of them, however, proved to be quite useful towards the last stage of settlement operation.

(*ii*) The survey school opened was closed down after sometime, and persons trained in private survey schools were entertained as and when occasion arose but they had no knowledge of survey. The Gazetted Officers and non-gazetted Assistant Settlement Officers who had no previous experience of settlement work, were given training before being placed in independent charge of camps. An analysis of the composition of staff from the beginning of the settlement operation till 1956 when there was some talk of closing down the settlement operation due to legal difficulty arising out of the Badagada writ case, shows that out of 1,687 employees in the Service Roll, 410 were persons of Northern districts, 1,143 were Oriyas of South Orissa, 2 were Bengalees, 100 were Telugus, 1,665 were Hindus, 14 were Mussalmans and 8 were Christians. Out of the Oriyas, 8 were men of the Scheduled Castes and two belonged to the Scheduled Tribes.

(*iii*) *Punishment*—Ninety-nine Amins and Inspectors were discharged not to be re-employed for bad work under orders of the Board. Eight Amins and Inspectors were dismissed for misconduct. A sum of Rs.3,074-15-0 was imposed as fine on the staff during the whole course of the settlement operation. One Peon was dismissed for having committeed serious irregularity in the service of notice. One Kanungo was also dismissed for misconduct. One Gazetted Officer was degraded to his former rank of ministerial officer.

(*iv*) *Bribery and other cases*—One Chakradhar Das, Inspector of Ganjam Settlemet, was prosecuted in a charge of bribery but the case ended in acquittal. Another Radhamohan Sahu was prosecuted on a charge of false personation as a Settlement Amin for realisation of remeasurement fee and he was convicted by the first Class Magitrate of Chatrapur.

(*v*) *Health*—The health of the staff was generally good and there was no untoward circumstances due to the bad climate of any of the areas under settlement operation. There was, however, a few cases of death in the camp and at head office due to natural causes. By being continuously in charge of settlement work, the health of Shri S. C. Banerji, Settlement Officer, broke down and he went on long leave from time to time till he died before reaching the date of superannuation. The health of Shri Lokanath Patnaik, Settlement Officer, also broke down towards the last part of his service and he was compelled by his failing health to go on leave preparatory to retirement. As a precautionary measure for maintaining the health of the staff in camp, medicines worth Rs. 1,227-0-9 were purchased during the whole course of settlement. Generally Quinine, Paludrine, Mepacrine tablets, Magsulph, Sodamint, etc., were supplied to the camps for use of the staff and officers, if and when necessary.

45. *Amalgamation of villages*—Amalgamation of villages or division of villages was not done in the Major Settlement Operation owing to difficulties presented by section 3(19) of the Madras Estates Land Act. Under section 3(19) of the Madras Estates Land Act, the essential requirements for a village are—

(*i*) the local area must be situated in an estate or the area must constitute an estate, (*ii*) this must be designated as a village in the revenue accounts maintained by the karanam or it is recognised or declared by the Provincial Government as such and it includes any hamlet or hamlets attached thereto. These conditions could not usually be fulfilled. This difficulty has since been removed. Under the New Orissa Survey and Settlement Act as amended by the amending Act 7 of 1962, a procedure has been prescribed for alteration of village boundaries or constitution of new villages during settlement operation in rule 61 of the Orissa Survey and Settlement Rules, 1962.

46. *Preparation of the khewat*—Khewats were not prepared for estates during the minor settlement operation whereas in the major settlement khewats of proprietory estates were prepared invariably in all cases except in case of poramboke and District Board roads. The details of khewats prepared have been discussed in para. 27 of Chapter IV. The circumstances under which resumable under-tenures were not allotted independent khewats in some cases and poramboke lands including District Board roads were not included in any khewat have been mentioned in detail in paras. 28 and 34 respectively of Chapter IV.

**47.** *Partal of Survey, Khanapuri, etc*—Check or partal of kistwar and khanapuri was done by Inspectors, Kanungoes and Assistant Settlement Officers. Check of subdivisions by side measurement at the Attestation stage and Objection stage was done by the Assistant Settlement Officers. In addition to this, the Assistant Settlement Officers did 10 per cent of classification check at the khanapuri stage. The Inspectors, Kanungoes and Assistant Settlement Officers had also to check stones, boundary lines, etc. After the Amin had finished survey, some final or independent partal was given. The minimum of independent partal was 12 chains per 100 acres. Besides this, the Assistant Settlement Officers and Kanungoes were required to do personal partal of at least one line in each sheet. It was laid down that every quadrilateral should contain a partal line. The Circle Officer himself did the final partal. Mistakes found out at final partal were corrected. In a few cases it was found necessary to order a fresh survey. In these cases, the Amin responsible for the wrong survey was very severely punished.

The average incidence of kistwar check over the whole settlement was as follows :—

| | | |
|---|---|---|
| Inspector | .. 1·87 linear miles per square mile | |
| Assistant Settlement Officer and Kanungo | .. 0·75 | Ditto |
| Independent or final partal | .. 0·54 | Ditto |
| Personal partal | .. 0·04 | Ditto |

The number of plots checked at khanapuri by the Inspectors was 63,995 or 16·75 per cent and that by the Assistant Settlement Officers and Kanungoes was 26,830 or 7·03 per cent of the total number of plots.

48. *Khatian and Parcha*—In the minor settlement records, the record-of-rights was prepared plotwar which roughly corresponds to khasra in the Bihar and Orissa System with details regarding irrigation, status and rent. The draft khatian used in this Major Settlement contains 19 columns and with some modifications resembles the khatian forms of North Orissa. The form adopted conforms to the provisions of Section 165 of the Madras Estates Land Act. In Ganjam, the local name of the land called ' Chaka ' has been noted in the khatian below the plot numbers for identification of the land, whereas, the boundary forms an important source of identification of the lands in North Orissa. The classification of the lands in North Orissa is Sarad, Biali, etc., whereas in Ganjam wet, rainfed and dry have been noted as classification with the name of the source of irrigation in case of wet lands. In Ganjam, the khatian serves the purpose of both Survey Land Register and record-of-rights and the parcha is treated as an extract of survey land register and forms as an enclosure to the notice under section 9(2) of the Madras Survey and Boundaries Act. Till preliminary record stages of Block C, this notice was given before Bujharat but in the villages of Block D 9(2) notices were served at the time of attestation as per order of the Government on the objection raised by the District Collector in this respect and other matters. The following objections were raised by the Collector in this connection :—

(*i*) Village plans and survey field registers were not supplied to the Collector before issue of notices under section 9(2) of the Madras Survey and Boundaries Act to enable the Collector to file complaints in respect of Government interested lands and for filing appeals under section 11 of the Madras Survey and Boundaries Act.

(*ii*) Government interested lands were not surveyed as full fields as required under rule 34 of the Madras Survey Manual.

(*iii*) Inam lands covered by different title deeds were surveyed as full fields as a result of which discrepancies arose between the areas as recorded in respect of Government Inam lands in Government records and in the Settlement records.

(*iv*) Previous survey records of minor service inam lands were not consulted.

(*v*) Irrigation maps were not also consulted.

On the objections raised by the District Collector, the following procedures were adopted during the survey and preparation of record-of-rights of Government interested lands situated in estate villages, as per orders of the Revenue Commissioner :—

(*i*) Notices under section 9(2) of the Madras Survey and Boundaries Act were issued at the attestation stage.

(*ii*) Copies of village plans and extracts of survey field registers were supplied to the Collector along with the notices under section 9(2) of the Madras Survey and Boundaries Act.

(*iii*) The issue of fresh notices under section 9(2) in case of lands already surveyed in the year 1941-42 for which records had been finally published was not considered necessary and if mistakes were discovered it was decided that steps would be taken by the Collector for their rectification by taking recourse to the proviso under section 172 of the Madras Estates Land Act.

49. *Khanapuri*—In respect of originally surveyed villages, the Amins wrote the khasra or list of plots in numerical order showing the description of the lands in each plot. They also made entries in all the columns of the khatian except those meant for area, status and rent which were recorded at the time of attestation. (The area is entered in khasra section before attestation.) When any contest arose about any record during khanapuri, a dispute was entered in a form called " dispute list " and decided by the Assistant Settlement Officer or in a few cases by an experienced Kanungo on merits. In respect of villages which were previously surveyed in the minor settlement where the Map and Survey Land Register were available, Khanapuri was made by the Amins in the field by a process called "the field bujharat" explaining all differences between the past and the present in change of registers called ' A ' Change Register involving inan of registry and ' B ' Change Register involving

subdivision. The entries regarding area, status and rent were completed then and there. The undisputed entries in the Change Registers were disposed of by the Assistant Settlement Officers or Kanungoes, the disputed ones being transferred to the ' dispute list ' were disposed of by the Assistant Settlement Officer or by an experienced Kanungo, when specially authorised. The attestation was done in all cases by the Assistant Settlement Officers in the originally surveyed villages the change not involving disputes were explained in the ' Yadast ' with the orders of the checking officers thereon. The total number of plots khanapuried during the major settlemen for 1,783 villages finished from all stages of the operation is 8,34,522.

50. *Attestation*—The stages of bujharat and attestation were not followed in Madras system. It was an imposition of Bihar and Orissa system on the Madras system by a liberal interpretation of the words occurring in section 166(1) " when the Collector has, after making such enquiry as he sees fit, completed a preliminary record,,etc." There is no mention of " Attestation " in the Madras Estates Land Act or its Statutory Rules. Absence of Bujharat means denying a valuable facility to the ryots in understanding as to how the preliminary records have been prepared. This naturally leads to complications at subsequent stages. In case of attestation of originally surveyed villages, the procedure of attestation as followed in North Orissa was followed. In case of revision survey villages, the Munserim in charge of Bujharat made a preliminary check of the records before commencing the bujharat. Then he checked the khewats, explained the entries in the preliminary record-of-rights, explained the changes in the change register, checked the status, entered the rent and cess and gave reference to the land-holder's jamabandi. In the originally surveyed villages the Descriptive Memoirs were partly written at the time of khanapuri by the officers and in case of revision survey villages the relevant columns were filled up by the Assistant Settlement Officers during their tour in villages at the time of field work. In both the cases the Descriptive Memoirs were completed before attestation and poramboke and private land proceedings were drawn up. It was the duty of the Stone Munserim sent to the camp to check the stones and see if the stones had been correctly fixed at all the points. The total number of plots attested in 1,783 villages completed from all stages of the operation was 8,92,142. Total number of khanapuri disputes and attestation disputes was 11,245. The percentage of the dispute to the number of plots is less than 2. The percentage of check of khanapuri and classification by the Inspecting Officers was 36·18.

51. *Recess work at different stages*—As soon as the map and the khasra were received in the khasra section, the areas were entered in the khasra. After the decennial totals were finalised, and the area verified with the total area of the village, the areas were entered in the khatian and khasra. The alphabetical arrangement of the the khatians and khatawar totals of the areas were made. Then a tipa teriz was prepared and the total area of the village was again verified with reference to the khasra. The orders in the yadasts were also checked in the khasra section and necessary action taken. Thereafter the Inspector finished his check and the record was made over to the Mukabila section in which khasra and khatian were compared. Then the record was made ready for attestation and made over to the Record Room for issue to the Attestation Camps. After the records were received from the attestation camps, the records were checked with reference to the change registers, badars, dispute lists, miscellaneous petitions and the orders of the officer. Then khatians were arranged again alphabetically. Anka milan was made and the plot index and teriz were brought up to date. The records were checked by the Peshkar. Safai or preparation of copies before Draft Publication was made and compared for distribution to the ryots at the draft publication stage. After the records were received from the objection camp under section 166 (1), they were again checked with reference to the orders on the objection petitions and final teriz was made. Final safai made before final publication. After the records were received from the rent objection camp under section 169(1) the orders passed in the objection petitions were again checked in the Rent Janch Section. All corrections till this stage were made in the working khatian and Rent Roll. The rent was checked as per the rates fixed by the Rent Settlement Officer and the total area and the total rent were compared and finalised. Then a confirmation sheet was prepared and submitted to the Settlement Officer for confirmation. After rent was confirmed by the Settlement Officer it was incorporated in the final record-of-rights. Copies of supplemental khatas or ' Ka ' khatas as they are called were made and compared for distribution to the parties and then the record was made ready for republication under section 170(3).

52. *Draft Publication and Final Publication*—Draft publication by reading out the contents of record-of-rights and giving copies thereof to the ryots was made and parties were allowed to file objections under section 166 (1) of the Madras Estates Land Act. After disposal of the objections, the record was finally framed and published. The period of draft publication was 3 months and the public got advanage of filing objections within the period of 3 months from the date of draft publication. But in the case of objections after draft publication of rent-rolls the period of objection was at first 3 months but was subsequently reduced to one month from the date of draft publication of the rent-roll. Although sufficiently long period was given for filing objections under section 166 (1) of the Madras Estates Land Act and this fact was widely published in the early stages of the statutory period, the rush of objections was always towards the later part of the period. In all, the total number of objections filed under section 166 (1) and those under section 169 (1) in all the zamindary and proprietory estates was as follows :—

| | | |
|---|---|---|
| Objections under section 166(1) of the Madras Estates Land Act | .. | 68,383 |
| Objections under section 169(1) of the Madras Estates Land Act | .. | 1,27,349 |

The average disposal per day by an officer varied from 26 to 40. The objections under sections 166(1) and 169(1) had been classified under different heads and the number allowed or disallowed under each head is given below—

| Total number of cases | Possession | | | | | | | | Money Rent | | | | Status | | | | | | Title | | Trees | | Remeasurement | | Produce Rent | | | | Classification | | | | Remarks |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Landlord *Versus* Landlord | | Landlord *Versus* Ryot. | | Ryots *Versus* Landlords | | Ryots *Versus* Ryots | | Landlord *Versus* Ryots | | Ryots *Versus* Landlords | | Zirayati *Versus* Bakast | | Landlord *Versus* Ryots | | Ryots *Versus* Landlord | | | | | | | | Landlord *Versus* Ryots | | Ryots *Versus* Landlord | | Landlord *Versus* Ryots | | Ryots *Versus* Landlord | | |
| | Allowed | Disallowed | Allowed | Disallowed | Allowed | Disallowed | Allowed | Disallowed | Allowed | Disallowed | Allowed | Disallowed | Allowed | Disallowed | Allowed | Disallowed | Allowed | Disallowed | Allowed | Disallowed | Allowed | Disallowed | Allowed | Disallowed | Allowed | Disallowed | Allowed | Disallowed | Allowed | Disallowed | Allowed | Disallowed | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 |
| Cases relating to Section 166 (1) of the Madrass Estates Land Act | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 68,383 | 4,063 | 4,969 | 1,667 | 6,166 | 1,248 | 3,616 | 12,409 | 12,665 | 558 | 522 | 363 | 649 | 12 | 1 | 444 | 1,493 | 1,314 | 1,097 | 730 | .. | 165 | 239 | 7,808 | 3,070 | 43 | 895 | 10 | 751 | 17 | 191 | 553 | 654 | |
| Cases relating to section 169 (1) of the Madras Estates Land Act | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1,27,349 | 90 | 506 | 536 | 2,215 | 1,240 | 4,778 | 31,854 | 22,630 | 2,629 | 2,475 | 1,053 | 2,583 | 10 | 29 | 298 | 1,325 | 409 | 1,545 | 18 | 40 | 3 | 15 | 40,009 | 6,572 | 13 | 110 | 21 | 47 | 75 | 110 | 224 | 593 | |



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The objections under change of registry tops the list. The objections in general were however simple in nature except a few which were complicated and contested.

53. *Clerical errors under section 175 of the Madras Estates Land Act*—Under section 175 of the Madras Estates Land Act, clerical and accidental mistakes in the record-of-rights are corrected by any Collector specially empowered by the Government and such corrections are made after giving reasonable notice to the parties to appear and be heard in the matter. There is no time-limit for correction of records after final publication or republication of the record-of-rights. Mistakes of this nature are generally detected during scrutiny at different stages of the settlement operations. Proceedings under this section are also initiated on the application of the parties concerned, the karanams or land-holders, as the case may be. The Board of Revenue directed that the different Taluk Officers of the district should be asked to scrutinise the final record-of-rights supplied by the Settlement Department and submit a list of such mistakes for action under section 175 of the Madras Estates Land Act. Some of the Taluk Officers submitted list of mistakes detected by them and proceedings under section 175 of the Madras Estates Land Act were started and records were corrected. Certain percentage of mistakes pointed out by them did not actually exist in the final record-of-rights. The number of mistakes pointed out by the Taluk Officers was rather negligible as compared with the mistakes pointed out by the staff of this department. During his tour in this district, Dr. H. K. Mahatab brought to the notice of the Government that there were innumberable mistakes in the ryoti copies of final record-of-rights supplied by the Settlement Department. Under orders of the Government a sample survey was made in respect of 5 villages in Khallikote ex-estate and the result of such survey was brought to the notice of Government. Enquiries during sample survey revealed that the majority of mistakes detected during survey were not due to any latches on the part of the Settlement Departments but due to negligence of the ryots themselves who did not care to get their transfers or changes, etc., recorded at different stages of the settlement opreation although the law afforded enough opportunity for this from the beginning of settlement operation. 3,471 mistakes of clerical nature were instituted and disposed of.

54. *Revisions under section 205 of the Madras Estates Land Act*—From the beginning of the settlement operation, 204 cases under section 205 of the Madras Estates Land Act were instituted and all of them were disposed of. None of the cases was important in nature.

55. *Appeals under section 171 of the Madras Estates Land Act*—Under section 171 the appeal should lie within three months from the date of republication under section 170(3) before any Revenue Authority superior in rank to the Assistant Settlement Officer (Collector) and the Settlement Officer (Confirming authority). The Collector of Ganjam was specially appointed as the appellate Authority under section 171. But in a subsequent notification this power was delegated to a retired District Magistrate under re-employment, namely late Gopinath Behera of Berhampur. 253 appeals under section 171 of the Madras Estates Land Act were filed out of which only 52 were disposed of. The rest are still pending for disposal by the Collector. Ganjam.

56. *Revision Cases under section 172 of the Madras Estates Land Act*—2, 425 revision cases under section 172 of the Madras Estates Land Act have been filed before the Board of Revenue and most of these cases have since been disposed of by the Board of Revenue. 958 are cases filed by the Collector as well as Tahsildars for correction of khewats consequential to abolition of the Estates. Formerly all revision petitions under section 172 of the Madras Estates Land Act were filed in the office of the Board of Revenue at Cuttack. As this was inconvenient to the parties rule 13 of the Board of Revenue (Orissa) Rules, 1951 was amended on the 7th September 1953 to the effect that review, revision and appeal petitions relating to survey and settlement operations could be filed at the headquarters of the different settlement operations. Thereafter most of the revision petitions were filed at Berhampur Settlement Office which were forwarded to the Board for disposal along with the report of the Settlement Officer.

57. *Civil cases under section 173 of the Madras Estates Land Act*—Twenty-one civil cases against the entries in the record-of-rights were instituted in the Civil Court. There is no information about their disposal.

58. *Remeasurement fees*—In the attestation stage, subdivisions are very often necessasy and it is made mostly on the applications of the ryots but no fee is charged at this stage. According to the Government order, remeasurement fees were charged at objection stage. The rate of remeasurement fee at the objection stage in Ganjam was Re. 0-12-0 for the first two plots and Re. 0-6-0 for each plot above two. There was no provision in the rule to realise remeasurement fees during rent objection thearing stage. Rule 19 of the statutory rules was amended in notification No. 1818-R., dated the 14th February 1950 to provide for this.

In June 1953, the Board of Revenue raised the question of unification of the procedure of charging remeasurement fees as the standard rate of fees laid down in rule 238 of Bihar and Orissa Technical Rules, Volume-I was considered to be out of date in view of the revision of pay of the settlement employees particularly of the Surveyor Munsarims. Moreover four different rates of fees were realised in different settlements as noted below—

| Name of area | Maximom plots | Rate | Plot in excess of maximum | Rate |
|---|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) |
| | | Rs.a.p. | | Rs.a.p. |
| 1. North Orissa Districts .. | 4 | 0-12-0 | 1 | 0-3-0 |
| 2. Kalahandi .. | 10 | 2-0-0 | 1 | 0-3-0 |
| 3. Ganjam-Koraput .. | 2 | 0-12-0 | 1 | 0-6-0 |
| 4. Dhenkanal .. | 4 | 1-8-0 | 1 | 0-6-0 |

The Board finally decided that the rates noted against serial 4 would apply to all districts in the State of Orissa except Ganjam and Koraput districts. On a reference made by the Settlement Officer, Koraput Government passed an order that no remeasurement fees should be realised from the Government in case it became necessary to inspect or to remeasure certain lands at the instance of the Tahsil Agents. But a separate account of such cases should be maintained for reference in future. No such case has arisen in Ganjam as majority of the survey work had been finished by 1954 when this order was passed by the Government. The rates of remeasurement fees have been made uniform under the Orissa Survey and Settlement Rules, 1962.

59. *Railway lands*—During the survey of Blocks A, B and C, a special Overseer was deputed by the Railway Department to look to the interest of the Railway Department and point out the railway lands. Although previous intimation was given to the Railway authorities from time to time, the Railway authorities did not depute any staff during the survey of Block D and consequently there was a lot of correspondence over the subject and in some cases the correspondence went on for years together. In respect of survey of villages Nilapur and Khandava, some discrepancies were noticed between railway plan and the settlement survey plan. The matter was finalised after joint spot inspection of the Charge Officer and the Railway Engineer.

60. *Missing of records*—The records of villages Deulpalli and Bira Dhanurjayapur were lost during transit to the Final Publication Camp, Russelkond on the 1st February 1954. The Police, who were informed of the matter, failed to trace out the records. On receipt of some clue from the staff of Kodola Camp, the Charge Officer recovered a portion of the records from a Cartman of Baliasara near Boirani who picked up the same at night on the 4th mile of Berhampur-Aska Road. As the full record was not available, the records of these two villages were reconstructed from the preliminary stage on the basis of the map which was available after observing all the formalities and the notification under section 13 of the Madras Survey and Boundaries Act was cancelled. The final publication of the records was done in due course.

The final record-of-rights of villages Bada Agula, Sana Baragan and Ambajhar Nuapalli prepared during minor settlement were missing from the Collectorate as a result of which the changes ordered during rent settlement stage in this settlement could not be incorporated in the final record-of-rights and so the settled rent could not be given effect to in these villages.

61. *Descriptive Memoir*—This is analogous to the village-notes of North Orissa. According to the procedure followed in Madras Presidency, a Descriptive Memoir consisted of the following details:—

(1) Date of publication of the records under section 166

(2) Year of introduction of the settlement of rents

(3) Situation of the village

(4) The areas under several description and tenure of land.

(5) Method of survey and demarcation

(6) Population

(7) Details of ryoti holdings

(8) Live-stock, pasture and forest

(9) Record of irrigation rights

(10) Financial results

The form was changed with the approval of the Government. In the Major Settlement, Ganjam, the record of irrigation rights was separately embodied in the irrigation khatian. The Descriptive Memoir followed in Ganjam Major Settlement consists of the following details:—

(1) Physical features

(2) The method of survey and demarcation

(3) Population, religion and caste

(4) Number of holdings in the possession of hereditary and non-hereditary cultivators.

(5) Economic condition of the people

(6) Agricultural stock

(7) (*a*) Roads and communication

(*b*) Nearest Market

(8) Village measures

(9) Wages of agricultural labourers

(10) Notes about existing rent and system of realisation

(11) Notes which may prove usefull for settlement of rent

(12) Forest rights

(13) Results of crop-cutting experiments, if any

(14) Brief account about fair rent settlement.

(15) Rate of fair rent

(16) Year of introduction of the fair rent

(17) Date of publication of the records under section 166(2) and under section 170(3) and details of publication of notification of rent settlement by referring to the Gazette

The form introduced in the Ganjam Major Settlement was more comprehensive than that used in the Minor Settlement operation and the notes made in the Descriptive Memoir by the Assistant Settlement Officers were of great use at the time of Rent Settlement.

## CHAPTER VI

### RENT SETTLEMENT AND CESS

62. *Systems of Rent in existence before Rent Settlement*—In the zamindary areas of the Ganjam district the following systems of rent collection were in vogue:—

(*i*) Kost Royani
(*ii*) Mustajari
(*iii*) Cash rents
(*iv*) Assamwari

(*i*) *Kost Royani system*—This was a system under which the entire body of ryots of a village or a section of them on behalf of the whole body, agreed to pay a lump sum in cash to the land-holder in lieu of the produce rents payable by them in respect of all crops.

The way in which this system worked is that the value of the gross produce of a village was estimated annually by estate servants and village assessors. The lease amount was fixed as a result of haggling. The ryots then paid as rent the cash value of the share of the produce which was customarily due from them as rent. The shares varied from village to village. In case of bad crop the ryots approached the Estate Authority for remission. No outsider was allowed to compete with the ryots. The share of the gross produce (not its value) which was payable as rent to the land-holder was noted in the record-of-rights as the legally payable rent. This system was in force in some villages of estates Athagada, Khallikote, Chikiti and Surangi.

(*ii*) *Mustajari system*—Under this system lease for realising the ryoti rents of a village for one year or for a term of years was given to a lessee or a body of lessees who might be either ryots of the village or outsiders. The lessees or body of lessees were known as Mustajars and a certain amount was paid to the land-holder as consideration for the lease, sometimes with reference to the crop outturn of the village, sometimes arbitrarily and sometimes by auction. The lease was usually granted in auction to the highest bidder. The auction took place before the commencement of the agricultural operation of the year in April or May. In years when there were no rival bidders or the bid amount was not up to the expectation of the land-holder the leasing out was kept in abeyance till the crops were ready when the auction was held with brisk bidding. In years where no bid was offered by anybody to the satisfaction of the estate, the estate kept the village for direct realisation of the rents from the ryots by the sharing system.

The Mustajar collected rents from the ryots by taking a share of all kinds of crops grown on produce rented lands. Cash rents were realised by the Mustajar in the ordinary way. The Mustajars seldom granted receipts for the dues received by them. The proportion of the gross produce taken by the Mustajar as the land-holder's share was recorded as the existing rent. The mustajar was a farmer of rent. Generally he had enormous profits. Mustajari system was prevalent in some villages lying in estates Athagada, Khallikote, Badakhemendi, Chikiti, Dharakote, Sheragada, Badagada and Sanakhemendi.

(*iii*) *Cash Rent*—Cash rents had been fixed in a number of villages by the land-holders by commutation of produce rents. These were at times revised by the land-holders. In some cases cash rents were either concessional or privileged in consideration of special factors such as supply of labour and various articles of consumption, lands enjoyed by the deities, etc. These cash rents were recorded wherever they were found, provided they had been agreed to by the ryots. Cash rent was prevalent in some villages of estates Athagada, Khallikote, Biridi, Dharakote, Sheragada, Jarada and Aska Malukdari. Besides there were 276 villages in which cash rents were settled in the minor settlement operation under provisions of the Madras Estates Land Act in estates Athagada, Khallikote, Dharakote, Jarada, Surangi and Badakhemendi.

(*iv*) *Assamwari system*—According to this system the estate directly recovered rent from the ryots. These rents were either cash fixed with reference to the value of a certain proportion of the crop outturn or produce rents. In either case the proportion of the gross produce payable to the land-holder (and not the cash equivalent) was recorded as the existing rent. This rental system was prevalent in some villages of estates Athagada, Khallikote, Badakhemendi, Chikiti, Jarada, Paluru and Humma. In case of produce rents no share of the by-products (straw, etc.) was normally taken by the land-holders . This fact was not mentioned in the khatian but this was entered in the Descriptive Memoir in the proper column.

The worst of the above rental systems was the mustajari system as it did not maintain direct relation between the ryots and their landlords. The mustajars who were worst speculators collected rents from the ryots without having any regard for their welfare. They often took advantage of thier position and were often alleged to have taken illegal exactions from the ryots and harassed them, whenever they could and also exact "bethi" service for their private purposes. With the abolition of the estates and fixation of cash rent, the system has died a natural death.

63. *Mamools*—Mamools such as Khala Mamools were occasionally allowed to ryots by the Mustajar and even by the estate in years when the collections were directly made by the estate at varying rates of the gross produce of paddy and ragi, the rates of ragi being different from that of paddy. The Mamools varied from estate to estate and often from village to village. The mamools were separated from the gross produce before the division of the crops and were taken by the ryots. An enquiry about this was made and the results entered in the Descriptive Memoir.

64. *Illegal exactions*—During the course of settlement operation it came to light that in almost all the estate areas illegal exactions of some or other of the following kinds were in vogue, the nature of which varied from estate to estate.

(*i*) *In connection with the Car Festival of Lord Jagannath*—Felling of trees in the forest for constructing Ratha of Lord Jagannath, supply of logs at the "Ratha Padin" and supply of ropes of "Siali Lata", etc. The above services were realised from some ryots without payment of any remuneration.

(*ii*) *Halachina*—Originally this meant dues realised by the estate for each plough owned by the ryots as rent. But in course of time this was realised in addition to the legal rent payable by the ryots. In some estates this was realised at the rate of Re.0-12-0 per each unit (called Kania) of ryoti land, the unit being an original share in the total ryoti land of the village.

(*iii*) *Sithobasan*—This was imposed by the land-holder of a particular village for the remuneration of the services of a paik. The mustajar used to pay up the same to the Estate at the rate of 5 bharans of paddy and a sum of Rs. 7 and he realised the same from the ryots at the rate of 2½ Adas of crop other than paddy.

(*iv*) *Laxmipuja dues*—The ryots of the village used to pay Rs. 2 each to the Mustajar for this festival.

(*v*) *Construction of a residential house for the Mustajar at the khala*—The mustajars used to levy Re. 0-1-0per each Bharan of land (1/5th of an acre) on the ryots for construction of a house for his residential purpose in the Khala during the harvesting season (Bharana is both a square measure as well as volume measure in Ganjam).

(*vi*) *Heta Halachina*—The land-holder used to realise an excess amount of Re. 0-8-0 above the rent for cultivation of his private land for each plough possessed by the ryot.

(*vii*) *Khajana Rosam*—In case of a cash-rented village the land-holder's agent used to realise an excess of 6 pies in a rupee in addition to legal dues of the estate. In some estates also a sum of Rs. 3 was realised for collection of Rs. 100.

(*viii*) *Halabhada*—In case of cash-rented villages if there was a bumper crop in the village the land-holder used to realise 4 to 8 annas per rupee in addition to the cash rent.

No case of action under section 136 of the Madras Estates Land Act by a suit before the Collector for recovery of such illegal exactions and penalties seems to have been filed in Ganjam against any of the land-holders.

65. *Circumstances leading to the passing of Act XIX of* 1947—In the zamindari areas the share of rent was half the gross produce. In the neighbouring ryotwari areas the ryots paid much less rent as the principle was half the net produce as per Board's Standing Order I (3). As the rents realised in the zamindary areas were thus high and appeared oppressive there was continuous discontentment amongst the zamindary ryots and agitation was started under the leadership of the Zamindary Ryot's Association. In 1937 the Congress Ministry framed a Bill for reducing the rent of the zamindary ryots. According to this Bill in zamindary areas the rates of rent should not exceed more than 25 per cent of the rates prevailing in the neighbouring ryotwari areas. The Bill was passed by the then Legislative Assembly but it did not get the assent of the Governor as the zamindars sought the protection of the Governor on the ground that their income would be greatly reduced if the Bill were to become law. The Governor of Orissa, Mr. Habback forwarded this Bill for consideration of the Governor-General of India. In 1941 the Governor-General, Mr. Linlithgo vetoed the Bill on the ground that the zamindars promised to reduce the high pitch of the then existing rent and that the effect of the Bill had not been investigated by the Provincial Government.

According to the assurance given by the zamindars, the Rajabahadur of Khallikote and Athagada only to some extent reduced the rates of rent settled in the minor settlement. He also fixed cash rents in the mustajari and kost royani villages by commutation process. The other zamindars, however, did not appear to have taken similar steps. Therefore, discontentment continued to exist. A conference of ryots, land-holders and representatives of Government was held early in January 1948 under the Presidentship of the then Minister of Revenue, Shri Nabakrushna Choudhury in which the zamindars gave an assurance to reduce the rents in their estates.

As it was found by the Government that the zamindars had not fulfilled their assurance, the Government prepared Madras Estates Land Act (Amendment) Bill so as to empower the Rent Settlement Officers to commute the existing produce rents during Rent Settlement and reduce existing cash rents wherever they were found to be high. Later on this bill was passed by the Legislative Assembly as the Madras Estates Land (Orissa Amendment) Act, XIX of 1947.

As the Settlement Operations were closed during the period of War it was found necessary to resume the settlement operations so that rents could be settled according to the provisions of section 168-A of the Madras Estates Land Act which was inserted by Orissa Act XIX of 1947. From the middle of 1947 the settlement operations were resumed. Rent settlement was first taken up in the estates where the zamindars did not act up to their assurance. Khallikote and Athagada and Parlakemedi estates were left out of rent settlement operations at the first instance as the Raja Bahadur of Khallikote gave certain concession and as the cash rents in Parlakimedi were not so high when compared with the adjoining ryotwari areas.

66. *Rent* b *Settlement*—(*i*) Act of XIX of 1947 provides that while commuting produce rents the prices prevailing in the agnormal years to be declared by the Government under section 40(3) of the Madras Estates Land Act have to be excluded besides the famine years. The statutory rules framed under section 168-A require that while fixin rents, not less than 33·1/3 per cent of the gross produce has to be given as deduction towards cultivation expenses. Besides this concession on account of vicissitudes of season and merchant's profit can also be allowed by the rent Settlement Officers at their discretion in order to enable them to fix fair and equitable rent. Under the old section 168 the existing rent or the rate of rent was presumed to be fair and equitable until the contrary was proved. But under Act XIX of 1947, a proviso was added to the effect that they would not be deemed to be fair and equitable if the previous rented been fixed on the basis of half the gross produce or any portion of the gross produce regardless of the cost of cultivation. Section 168-A gave power to the Collector to reduce even the existing cash rents if they were fixed without having regard to cultivation expenses or were unfair and inequitable otherwise. Government declared the years 1941 to 1956 as abnormal years on the recommendation of the Settlement Department and the Collector of Ganjam. The income of these years while fixing the rents was not taken into consideration.

(*ii*) Government directed fixation of fair and equitable rent in all the ryoti villages excluding the villages of Athagada, Khallikote, Biridi and Parlakimedi. The question whether rent settlement operations in the above four estates should be taken up or not was examined in detail and a report was submitted to the Government by the Settlement Officer for their orders through the Board. Government ordered that rent settlement should also be taken up in the ryoti villages of Khallikote and Athagada, Biridi and Parlakimedi and they also issued noti-

fication accordingly. The rent settlement operations in all the ryoti villages have been completed and settled rent given effect to except in (*a*) villages Cheliakuda, Barakuda and Kankarkuda in Khallikote and Rambah Bit II in Biridi, (*b*) Khasua and Sanatbandh in Khallikote and Jhadabandha in Athgarh, (*c*) Ambajharnuapalli in Khalikote and Sana Agula and Badabaragan in Athagarh and (*d*) all the jeroyiti villages of Parlakimedi. Villages mentioned at (*a*) above were not taken up for rent settlement pending orders by the Board of Revenue on a petition by the Raja Bahadur of Khallikote claiming these to be private property and not included in Khallikote and Biridi impartible estates. Villages mentioned at (*b*) above were not at first taken up on the presumption that these were inam villages but subsequently it was found that rent settlement had been done in those villages during the minor settlement operations. These villages will be taken up for simultaneous operation under section 36 of the Orissa Survey and Settlement Act, 1958 along with the ryotwari villages. Though rent settlement was taken up in respect of villages mentioned in(*c*) above it was not given effect to due to loss of original record-of-rights as mentioned in para 60. of Chapeter V. Although the notification directing the rent settlement operations of Parlakimedi estate was issued in 1951, the same was not taken up under Government orders. Simultaneous operation for survey, preparation of record-of-rights and settlement of rent under section 36 of the Orissa Survey and Settlement Act has been taken up in all the jeroyiti villages of Parlakimedi from the field season of 1961-62.

(*iii*) The Madras Estates Land Act did not provide for issue of Government orders for rent settlement of a village without the record-of-rights being previously finally published (this lacuna in law has since been removed by the Orissa Survey and Settlement Act, 1958). Therefore although the inam estates had been taken up for a settlement operation from the year 1948, still no rent settlement notification was issued as record-of-rights had not been finally published. By the time they were ready for final publication, the decision of the High Court invalidating the settlement procedure came in the year 1954 and so the operations were stopped. After passing of the Validation Act, the settlement operations were resumed and Government ordered for rent settlement in the inam estates. The first batch of notification was issued on the 24th October 1956. In all, notifications for rent settlement under section 168-A of the Madras Estates Land Act were issued for 344 inam villages. Rent settlement was not ordered in respect of the remaining villages as they were either covered by writs or suits. Rent settlement has since been completed in respect of 278 inam villages. After issue of the notifications 36 villages were subsequently covered by writs and suits and the rent settlement operation in those villages was suspended. Some of the villages have since been released from litigation. As by this time, ryotwari settlement programme had started, it was decided to take up the work in those villages under the provisions of the Orissa Survey and Settlement Act along with the ryotwari villages. The up-to-date position is that out of 538 inam villages, rent settlement has been completed in respect of 278. No rent settlement was necessary in respect of 124 villages as there were no ryoti holdings in these villages.

67. *Principles followed in settling rent*—In the minor settlement operation 276 villages were completed from rent settlement. While fixing rent, no uniform principle was followed and the rates of rent in different estates were fixed on different principles. This procedure naturally gave rise to inequities. The existing rents in the zamindary areas were far higher than those prevailing in the neighbouring ryotwari areas. It was, therefore, necessary to lay down certain principles to be followed by the Rent Settlement Officers in order to avoid anomalies as far as possible. The Government in the first instance ordered that the general rent incidence in the proprietary areas should not be higher than that prevailing in the neighbouring ryotwari areas plus whetever enhancement might be due since the last assessment of rent in ryotwari tracts under the existing rules inforce for settlement of rent in that area. Government finally decided that ordinarily the average rate of rent in the zamindary areas should not exceed by more than 25 per cent the existing rates of rent in the neighbouring ryotwary areas. Although legal provisions did not require comparision of rent of the ryotwari areas with that of the zamindary areas, still Government felt desirable not to disregard altogether the rates of rent obtaining in ryotwary areas. The rents in the ryotwary tracts of ex-Madras areas were under the existing rules, liable to enhancement during the Settlement Operations by 18¾ per cent due to rise in price of staple food crops. The last ryotwary rent settlement took place between the years 1904 to 1910. (There was no statute governing rent settlement in the ryotwari areas until passing of the Orissa Survey and Settlement Act, 1958. The Settlement Officer was guided by departmental rules embodied in the Board's Standing Order which is a set of executive instructions. The jurisdiction of Civil Courts over the question affecting the rates or the amount of assessment was saved by section 58 of the Revenue Recovery Act II of 1864.) The general price index in August 1955 was 357 . 3 per cent as compared with the base year of 1939. On the ground of rise in prices an enhancement higher than 18 3/4 per cent could be justified if it were permissible under the rules. So the principle of assessing the rents in zamindary areas so as not to exceed ordinarily by more than 25 per cent existing rates in the neighbouring ryotwary areas was quite sound and at the same time quite fair and equitable. Considering the high pitch of rent in ex-estate areas, there has been an over-all reduction of rent in almost all zamindary and properietary estates except in a few cases.

In the inam villages situated in the ex-zamindary areas where rents had been settled under section 168-A of the Madras Estates Land Act, rates of rent for different classes of lands were fixed broadly in accordance with the rates fixed for similar classes of lands in the adjoining estate ryoti villages. In the inam villages situated in the Parlakimedi ex-zamindary area the rates adopted in the imnam villages which generally lie in the plains were based on the rates prevailing in the surrounding ryoty villages. When, however, an inam village adjoined Doratanam villages the rates of rent prevailing in the latter category were taken into consideration. In the whole-inam villages situated in ryotwari areas, the average rates of rent for the different categories of land were so fixed as not to exceed by more than 25 per cent the rates of rent prevailing in the surrounding ryotwari villages.

During the course of the rent settlement, some difficulty in maintaining the principle of parity with the incidence and rates of the neighbouring estate ryoti or ryotwari villages as per rent settlement policy approved by the Government, was felt. Government ordered that the rates of rent of the inam villages situated in the zamindary areas should be so fixed as to be almost equal to those of the adjoining villages, provided that these villages stood at par so far as soil, situation of the land, irrigation facilities etc., were concerned as ascertained during local enquiry. In case of inam villages situated in ryotwari areas the same principle was to be followed except that the rents of the inam villages under rent settlement operations would be so fixed as to represent 25 per cent enhancement over those prevailing in the adjoining ryotwari village.

Lands belonging to deities were ordered to be assessed at half the rates applicable to similar lands in the village.

68. *Procedure of fixation of rent*—(*i*) The rules framed under section 168-A of the Madras Estates Land Act under the Revenue Department notification No. 7798-R., dated the 20th September 1947, prescribed the procedure for (*i*) settlement of fair and equitable rent in cash, and (*ii*) reduction of rent where it was considered that the existing rent had been fixed without taking into consideration—

(*a*) Vicissitudes of season,

(*b*) Cartage and merchant's profits, and

(*c*) Cultivation expenses at a rate not less than 1/3rd of the gross produce.

In the last case, the Collector (Assistant Settlement Officer) was to redetermine the rent legally payable and in so doing he should reduce the existing rent by not less than 1/3rd towards cost of cultivation. If the balance was, in the opinion of the Collector, still unfair and inequitable, he might in his discretion make one or both of the following deductions out of the reduced rent, namely, (1) allowances on account of vicissitudes of season—not exceeding 6 ¼ per cent of the existing rents in case of wet lands and 25 per cent in case of dry lands, (2) allowances on account of cartage and merchant's profits not exceeding 15 per cent of the existing rent; and thereafter the rent after such deductions would be treated as the fair and equitable rent.

This more or less followed the commutation principle prescribed in the Rules under section 40 of the Madras Estates Land Act issued in the same notification, with this difference that the deductions were to be made under section 40 from the average value of the rent accrued due to the land-holder during the 10 years preceding the date of the application under section 40 other than the year or years notified by the Government to have been either famine or abnormal years (Government notification from time to time declared the years from 1941 to 1956 as abnormal years) or if the value for such period could not be ascertained, during any shorter period for which evidence might be available excluding famine and abnormal years. The rate of money rent to be fixed should not exceed one -half of the money value of the net produce (after necessasy deduction) valued at average of the prices prevailing during the 10 years prior to commutation excluding the years declared by Government to be either famine or abnormal years or during any shorter period for which evidence was available. Thus it will be seen that although the rules under section 40 prescribed an apparently different procedure, still the rsults in both the cases would more or less be the same. The existing rent referred to in section 168-A of the Madras Estates Land Act also covered cash rents where they had been settled previously.

(*ii*) The Officers doing rent settlement had first of all to be invested with powers under section 168-A of the Madras Estates Land Act. The general power of the Collector (Settlement Officer and Assistant Settlement Officers were invested with powers of Collector under chapter XI and XII of the Madras Estates Land Act) to prepare record-of-rights and make rent settlement was not enough and the Assistant Settlement Officers had to be specifically invested with the powers under section 168-A.

(*iii*) Draft Rent Rolls and a copy thereof were prepared in the same form as the record-of-rights in respect of ryoti lands. At the same time a statement called taram statement (classification statement) was also prepared for every village with reference to the taram classification (this taram classification or sub-classification does not appear in the final record-of-rights) entered in the draft khatians so that the extent of lands under different tarams could be known which would facilitate calculation of rent according to the rates fixed for different tarams. In the villages which were only taken up for rent settlement without survey and preparation of record-of-rights (there were 326 ryoti villages in this category) rent-rolls were prepared after making the finally published or republished record-of-rights up to date and this was done by starting camp bujharats and inviting objections. This procedure had to be specially authorised under the rules framed under section 168-A of the Madras Estates Land Act as the time-lag between the finally published or republished record-of-rights and the rent settlement was quite long. Thereafter rent camps under the charge of Assistant Settlement Officers with necessary staff were sent for preliminary rent enquiry which was obligatory under the rules framed under section 168-A of the Madras Estates Land Act. A form called "preliminary rent settlement proceedings" was prescribed for noting down the results of the enquiry. The headings of the form indicated how to do rent settlement in the villages under different rental systems such as mustajari, assamwari and Kost Royani and they generally conformed to the statutory requirements under section 168-A of the Madras Estates Land Act. The Rent Settlement Officers enquired about the yields of different lands, cost of cultivation, vicissitudes of season, marketing facilities and the income accrued due to the land-holders, etc. They were supplied with the income accounts of the villages concerned which were to be taken into consideration for the purpose of arriving at the amounts accruing to the land-holders. Each village was considered as a unit for the purpose of rent settlement and so the deductions on account of (1) cost of cultivation, (2) vicissitudes of season and (3) cartage and merchant's profits had to vary from village to village. But generally the villages were divided into three groups with reference to their fertility and distance from the markets. The yearly average amount accruing to the land-holder basing on the income account was ascertained first. Then the yields of different tarams of land in the village were ascertained by enquiry from the parties. The amount accruing to the land-holder during the decennial period under consideration (or during any shorter period for which evidence was available) excluding famine and abnormal years was worked out and then the average per year was known. This amount was multiplied by the yield of a particular taram of land as ascertained during the enquiry and this was divided by the total yield of all the tarams of land in the village and the quotient was taken to be the gross rent of a particular taram. Thereafter the Assistant Settlement Officers allowed deductions as prescribed in the statutory rules under section 168-A of the Madras Estates Land Act. In case of mustajari villages, the estimated profit of the mustajar was added to the lease amount to arrive at the income accruing to the land-holder. In case of villages where income account was not available, the yield of a particular taram of land was ascertained and converted into cash at an average of the rates prevailing during the decennial normal period under consideration and necessary deductions as stated above were made. Half of this net income was taken as the fair and equitable rent. In case of villages where cash rent had already been fixed in the minor settlement operations they were found to be unfair and inequitable and they had to be reduced in accordance with the principles prescribed in rules under section 168-A of the Madras Estates Land Act. In this way the rate of rent for each taram of land in the village was fixed and the rates thus fixed were mentioned in the preliminary rent settlement proceedings.

(*iv*) Although this was the theoritical principle which conformed to the statutory provisions, still in practice, a somewhat different method of calculation was followed, as the rates of rent ultimately fixed had also to be in accordance with the general principle approved by Government as mentioned in paragraph 67. So in actual practice, the income of the land-holder and the normal prices being more or less fixed quantities, adjustments had to be made by the Assistant Settlement Officers in the yield of the lands and deductions to be allowed.

(*v*) During rent settlement operation, it was found that the cash rents settled in some cases during the minor settlement operations or by the zamindars themselves by mutual agreement were found to be lower than the rents settled. This anamoly was removed and whatever fair and equitable rent was fixed for other classes of lands in the neighbourhood was also fixed for such lands. It was pointed out by the Ryots Association, Ganjam through Shri Biswanath Das (now Governor, Uttar Pradesh) that rent settlement officers had no legal power to enhance the exsting rates of rent but they could only reduce the rates of rent. This objection was overruled on the ground that section 168-A empowered the Collector to fix fair and equitable rent and as such he had ample discretion in the matter and where circumstances warranted it on account of the unfairness of the previous rent (the lower rent is certainly unfair to the land-holder), the Collector was at liberty to enhance the rent. The Member, Board of Revenue in revision petition No. 6 of 1950-51 (Arjun Pradhan *Versus* Jamindar, Sheragada) also held a similar view. Although there was an over-all reduction of rent in almost all the jamindaris and proprietary estates still some isolated cases may be found where rents have been enhanced on proper grounds.

69. *Procedure subsequent to fixation of rent*—(*i*) After mention of the rates of rent in the preliminary rent settlement proceedings camps returned to headquarters where calculation of rent for each ryoti holding was done on the taram statement in accordance with the rates mentioned in the Preliminary Rent Settlemen t Proceedings and then the total rent of each holding was incorporated in the draft rent-rolls. Thereafter a notice intimating the date of draft publication of the rent-roll was published in the village as required in rule 18 of the Statutory Rules and draft publication was done on the fixed date. After draft publication of the rent-rolls, objections under section 169 (1) of the Madras Estates Land Act were received in respect of any entry in or omission from the draft rent-roll within three months from the date of draft publication. The period of draft publication was, however, reduced to one month by amending the Statutory Rule 19 by Government notification, dated the 14th February 1950 but this amendment was made after the draft publication of the rent-rolls of almost all the ryoti villages had been finished. So the benefit of the amendment could not be availed of in respect of 1,549 villages in which rent settlement had been finished. Therefore, the number of objections received was very high and the nature of such objections was generally for change of registry, subdivision of holdings and change of tenure, etc. After disposal of the objections which were done in the camps, the rent-rolls and the draft khatians were corrected then and there. They were checked in the Janch Section at Head Office. Thereafter the objection officer submitted the records to the Settlement Officer who was appointed as the Confirming Authority by the State Government with a full statement of grounds of his proposal and summary of the objections which had been received. After going through the records, the Settlement Officer confirmed the rents. Thereafter, the rents as confirmed and the changes ordered under section 169 (1) of the Madras Estates Land Act were incorporated in the final record-of-rights previously published. In respect of villages finally published during the minor settlement operations, the changes ordered before draft publication of rent-rolls as well as those ordered under section 169 (1) of the Madras Estates Land Act were incorporated in the final redcord-of-rights. (The difficulty in confirming to the legal requirement of incorporating the changes in the final record-of-rights instead of preparing new copies of khatas has already been explained in paragraph 12 of Chapter II.) Thereafter copies of new khatians or 'Ka' or supplemental khatas, as they are called, were prepared for supply to the persons concerned, to the land-holder and the karanam as required by rule 23 of the Statutory Rules at the time of republication of the record-of-rights.

(*ii*) Previously the settled rent could take effect only from the beginning of the revenue year after the date of sanction by the Confirming Authority. By amending section 177 of the Madras Estates Land Act by Orissa Act XIX of 1947 Government assumed power to prescribe any earlier date for giving effect to the rent settled under section 168-A of the Madras Estates Land Act. Rents had been reduced in the rent settlement. In order to give benefit to the ryots, Government ordered that the settled rent should take effect retrospectively from the beginning of the revenue year in which the settlement of rent was sanctioned by the Confirming Authority and not from the beginning of the revenue year next after that except in case of Khallikote and Athagada Estates which vested in State Government on the 1st June 1953 in which settled rents were given effect to from the beginning of the revenue year next after the date of sanction by the Confirming Authority, i. e., from the 1st July 1953.

(*iii*) After getting necessary orders from Government regarding the date from which the settled rent would take effect, records were made ready for republication. The ryots, the land holders and karnams who were supplied with the final record-of-rights in the previous stages were asked to produce their copies at the time of republication for incorporation of the settled rent and the amendments ordered under section 169 (1) of the Madras Estates Land Act and this was mentioned in the notice in Form No. 13 prescribed in the rules. Most of them produced the copies and got them incorporated and corrected. The copies of new khatas prepared as a result of objections filed under section 169(1) of the Madras Estates Land Act were supplied to the persons concerned. Those who did not produce their copies on the date fixed in the notice in Form No. 13, could not get them incorporated and corrected. The statutory rules required that only those that produced their copies on the date of republication would get them corrected. There was no provision in the rule to get the settled rent incorporated in the record-of-rights and get them corrected on any subsequent date. (This was a lacuna in the law which has since been removed by the Orissa Survey and Settlement Act, 1958.) There was also some genuine difficulty as the old pattas were issued long ago in case of the minor settlement villages and they were seldom available having been lost or damaged in course of time. There was, therefore, a chorus of protest by the ryots and this was also voiced by Dr. H. K. Mahatab, who communicated the feelings of the ryots to the then Revenue Minister, Orissa. The Settlement Officer suggested to the Board of Revenue that an up-to-date patta might be supplied in such cases on payment of a nominal charge, but this proposal was not approved by the Board.

Pattas (supplemental khatas) remaining undistributed (as the parties did not turn up to receive the same) were consigned to the Collectorate along with the final record-of-rights.

70. *Effect of Rent Settlement* —(*i*) The following figures will show the maximum and the minimum rent settled in the minor settlement in some estates of Ganjam district as against those settled in the major settlement operation :—

| Serial No. | Name of Estate | Rate of rent settled before rent settlement in the Estates | | | | | | Rate of rent settled during rent settlement operations in the Major Settlement | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Wet | | Rainfed | | Dry | | Wet | | Rainfed | | Dry | |
| | | Maximum | Minimum | Maximum | Minimum | Maximum | Minimum | Maximum | Minimum | Maximum | Minimum | Maximum | Minimum |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| | | Rs. a. p. | Rs. a. p. | Rs. a. p. | Rs. a. p. | Rs. a. p. | Rs. a. p. | Rs. a. p. | Rs. a. p. | Rs. a. p. | Rs. a. p. | Rs. a. p. | Rs. a. p. |
| 1 | Badakhemendi .. | 16 0 0 | 8 0 0 | 14 0 0 | 5 0 0 | 8 0 0 | 2 0 0 | 8 0 0 | 1 5 0 | 4 2 0 | 0 9 0 | 3 7 0 | 0 6 0 |
| 2 | Dharakote .. | 18 0 0 | 3 0 0 | 10 8 0 | 2 0 0 | 7 0 0 | 0 12 0 | 8 1 0 | 1 6 0 | 3 13 0 | 0 13 0 | 4 8 0 | 0 4 0 |
| 3 | Jarada .. | 17 0 0 | 6 8 0 | 8 0 0 | 3 0 0 | 4 0 0 | 0 8 0 | 8 2 0 | 1 9 0 | 4 0 0 | 0 10 0 | 3 10 0 | 0 5 0 |
| 4 | Aska Malukdari .. | 20 0 0 | 6 0 0 | 10 0 0 | 5 0 0 | 10 0 0 | 5 0 0 | 8 2 0 | 1 12 0 | 3 10 0 | 0 12 0 | 3 8 0 | 0 7 0 |
| 5 | Surangi .. | 16 8 0 | 5 4 0 | 7 0 0 | 3 0 0 | 3 8 0 | 0 8 0 | 7 12 0 | 1 10 0 | 3 8 0 | 0 10 0 | 3 3 0 | 0 6 0 |
| 6 | Biridi .. | 7 8 0 | 3 12 0 | 6 0 0 | 3 0 0 | 6 6 0 | 0 12 0 | 6 8 0 | 2 4 0 | 3 8 0 | 0 10 0 | 2 14 0 | 0 6 0 |
| 7 | Athagada .. | 11 0 0 | 1 4 0 | 6 12 0 | 0 8 0 | 2 4 0 | 0 2 0 | 8 2 0 | 1 10 0 | 4 2 0 | 0 12 0 | 2 6 0 | 0 6 0 |
| 8 | Khallikote .. | 10 13 0 | 1 7 0 | 8 2 0 | 0 6 0 | 2 11 0 | 0 3 0 | 8 2 0 | 1 6 0 | 4 1 0 | 0 10 0 | 2 8 0 | 0 6 0 |

(*ii*) The statement at Appendix VI shows the rent incidence of the adjoining ryotwari areas enhanced by 25 per cent and the rent incidence of the estates concerned, the minimum and the maximum of the adjoining ryotwari areas, and the minimum and maximum of the rents settled in respect of the estates.

(*iii*) The statement below shows the amounts which were collected by the land-holders before rent settlement and the total amount as finally settled in villages taken up in the mojor settlement operation.

*Ryoti and Inam Villages*

| Serial No. | Name of the Estate or Taluk | Number of villages | Average income of the estate before rent settlement according to the income account | Rent finally settled | Percentage of reduction |
|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | Rs. nP. | Rs. nP. | |
| 1 | Badakhemendi .. | 178 | 2,16,628·19 | 1,15,017·75 | 47 |
| 2 | Sheragada .. | 29 | 37,864·60 | 23,469·69 | 38 |
| 3 | Dharakote .. | 165 | 1,32,269·96 | 88,200·75 | 33 |
| 4 | Chikiti .. | 124 | 1,81,169·06 | 89,232·97 | 51 |
| 5 | Jarada .. | 52 | 40,202·29 | 22,731·00 | 43 |
| 6 | Humma .. | 6 | 10,129·69 | 6,717·19 | 34 |
| 7 | Aska Malukdari .. | 28 | 50,806·56 | 30,755·75 | 39 |
| 8 | Surangi .. | 108 | 52,004·59 | 32,934·64 | 37 |
| 9 | Sanakhemendi .. | 130 | 1,35,895·22 | 83,942·25 | 38 |
| 10 | Biridi .. | 70 | 64,346·81 | 29,209·50 | 39 |
| 11 | Athagada .. | 220 | 2,45,789·42 | 2,41,496·59 | 2 |
| 12 | Khallikote .. | 304 | 2,14,967·88 | 1,93,400·71 | 10 |
| 13 | Badagada .. | 127 | 56,740·51 | 43,730·23 | 23 |
| 14 | Paluru .. | 20 | 14,150·01 | 9,025·03 | 36 |
| 15 | Berhampur Taluk .. | 50 | 43,250·33 | 16,126·07 | 63 |
| 16 | Kodala Taluk .. | 71 | 83,183·34 | 27,184·04 | 67 |
| 17 | Ghumsur Taluk .. | 42 | 47,054·08 | 14,290·00 | 70 |
| 18 | Aska and Surada Taluk .. | 70 | 63,289·26 | 17,859·38 | 72 |
| 19 | Parlakimedi Taluk .. | 19 | 23,241·45 | 8,597·01 | 67 |
| 20 | Chatrapur Taluk .. | 26 | 31,458·82 | 9,861·73 | 69 |
| | Total .. | 1,839 | .. | 11,13,782·28 | .. |

From the above statement it is clear that there was considerable reduction in the previous income of the land-holders which were due to the rent policy enunciated in section 168-A of the Madras Estates Land Act.

(*iv*) The statement below shows the total number of objection petitions received under section 169 (1) of the Madras Estates Land Act in each estate and inam villages situated in different taluks and the number allowed or disallowed and the percentage of allowed cases :—

| Serial No. | Name of the estate or taluk | Number of villages | Objection petitions received under section 169(1) | | | Percentage of allowed cases |
|---|---|---|---|---|---|---|
| | | | Allowed | Disallowed | Total | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1 | Chikiti .. | 124 | 3,464 | 3,435 | 6,899 | 50 |
| 2 | Biridi .. | 70 | 1,286 | 931 | 2,217 | 57 |
| 3 | Sheragada .. | 29 | 1,043 | 977 | 2,020 | 52 |
| 4 | Jarada .. | 52 | 1,497 | 557 | 2,054 | 73 |
| 5 | Paluru .. | 20 | 402 | 1,085 | 1,487 | 27 |
| 6 | Aska Malukdari .. | 28 | 1,472 | 2,297 | 3,769 | 39 |
| 7 | Humma .. | 6 | 254 | 361 | 615 | 41 |
| 8 | Surangi .. | 108 | 306 | 640 | 946 | 33 |
| 9 | Sanakhemendi .. | 130 | 3,378 | 3,413 | 6,791 | 49 |
| 10 | Khallikote .. | 304 | 15,573 | 9,365 | 24,938 | 62 |
| 11 | Athagada .. | 220 | 26,741 | 13,444 | 40,185 | 67 |
| 12 | Bodagoda .. | 127 | 1,526 | 2,267 | 3,793 | 40 |
| 13 | Badakhemendi .. | 178 | 9,574 | 5,975 | 15,549 | 61 |
| 14 | Dharakote .. | 165 | 6,451 | 3,879 | 10,330 | 62 |
| | *Inams* | | | | | |
| 1 | Berhampur .. | 50 | 428 | 446 | 874 | 48 |
| 2 | Kodala .. | 71 | 925 | 1,341 | 2,266 | 40 |
| 3 | Ghumsur .. | 42 | 205 | 385 | 590 | 34 |
| 4 | Aska .. | 70 | 455 | 697 | 1,152 | 39 |
| 5 | Parlakhemendi .. | 19 | 9 | 81 | 90 | 10 |
| 6 | Chatrapur .. | 26 | 199 | 585 | 784 | 25 |

The above statement shows that the number of cases filed and the number of cases allowed were quite appreciable. A large number of cases were filed in respect of transfer of registry and subdivision of holdings, which occured subsequent to the publication or republication of record-of-rights, as the case may be. Final publication of most of the ryoti villages taken up during the major settlement operation was done prior to 1942. Obviously during this period of about 10 to 12 years, a good number of cases of transfer and subdivision of holdings had taken place. Further, a good number of objections were filed for change of taram classification as at the record-of-rights stages, the parties were not given a chance of filing such objections because it was considered by Government on the objection of the Rajah Bahadur of Khallikote that taram classification was not a part of the record-of-rights. Disposal of such large number of cases naturally took a long time.

71. *Recording of cess*—(*i*) The definition of rent given in section 3(11) of the Madras Estates Land Act includes any local tax, cess, fees, or sum lawfully payable to a land-holder by a ryot in addition to the rent. In the zamindary and in the ryotwari areas of Ganjam Land Cess was leviable under the Madras Local Board's Act, 1920 as amended by Orissa Act II of 1947 and Education Cess was leviable under the Madras Elementary Education Act, 1920. Cesses were not shown in the record-of-rights which were finally published in the minor settlement operations. In March 1940, the Revenue Commissioner ordered that the actual amount of cess to be paid should be noted in the record-of-rights. Under the law the ryots in the estate areas were liable to pay only half

of the cesses and the other half was paid by the land-holders concerned. But in the record-of-rights that was prepared earlier the full amounts of cesses payable both by the land-holder and the ryots were noted in the record-of-rights. The mistake was detected in 1950 and a reference was made to the Board of Revenue. The Board of Revenue ordered that half of the cess payable by the ryots should be mentioned in the record-of-rights and in respect of the villages finished from republication by that time it was ordered to correct the mistake by starting proceedings under section 175 of the Madras Estates Land Act. This order also applied to the record-of-rights prepared during the minor settlement operation which were taken up for rent settlement in the major settlement operation. As there was no holdingwar record-of-rights prepared during the minor settlement operation, it was ordered that a holdingwar statement showing rent and cess payable by each ryot should be prepared in a prescribed form which would be treated as Annexure III to the record-of-rights.

(*ii*) The rates of cess varied from time to time according to the decision of the District Board. Different rates of cess have, therefore, been recorded in the record-of-rights according to the rate prevalent when the record-of-rights was prepared. Immediately before abolition of the estates, the rate of land-cess was 10 pice [2 annas leviable compulsorily under section 78(1) and six pies by a resolution of the District Board with the previous sanction of the Government under section 78(2) sanctioned in letter No. 10996-L.S.-G., dated the 10th December 1949] in the rupee of annual rent value of all occupied lands on whatever tenure held and this rate was effective from the 1st July 1949. The rate of education cess was 2 pice or 6 pies (enhanced from 4½ pies in the rupee under section 34(2) of the Madras Elementary Education Act, 1920, with effect from fasli 1359, i. e., from the 1st July 1949 in Education Department letter No. 6297-E., dated the 25th August 1944) in the rupee of rent value and the total cess was, therefore, 3 annas in the rupee. (All these rates have since been consolidated into 25 percent of the annual value of land by the Orissa Cess Act, 1962, which has come into force since the 1st January 1963 in this district). In the zamindary areas half of this was paid by the ryots (excepting in cases of encroachments and the lands of minor darmilla inamdars where full cess was levied on the encroacher or the inamdar, as the case may be) and the other half was payable by the land-holders. For ryotwari and pre-settlement minor inam lands, the full amount of 3 annas in the rupee was payable by the ryots. Under the amendment to the Orissa Estates Abolition (Amendment) Act, 1957 (Act 23 of 1957), the administration of the estate areas was brought on par with that in the ryotwari areas managed direct by Government. Attempt was, therefore, made by the Collector, Ganjam to realise cess from the ex-estate areas at the rate of 3 annas in the rupee of rent. This was opposed by the ryots on the ground that their rights had been protected under section 8(1) of the Orissa Estates Abolition Act. The old system, therefore, still continues. But the persons who have acquired ryoti status after the vesting, i.e., the persons with whom lands are being settled under provisions of sections 6, 7 or 8 of the Estates Abolition Act are liable to pay the full amount of cess at 3 annas in the rupee.

(*iii*) In the record-of-rights cesses have been entered both for old rents in column 4 of the final khatian and for settled rent in column 5. Two kinds of cesses have been recorded—one has been termed as land-cess and another as local cess. The rate of land-cess has been wrongly calculated at one anna (instead of 5 pice representing half of 10 pice effective from the 1st July 1949 and that of local cess at 1⅜ pies (instead of 3 pies) in the rupee of rent. For produce rents, it has been recorded that half the cess determined by the Collector is payable by the ryot and no fixed amount has been written.

## CHAPTER VII

## CONSIGNMENT AND MAINTENANCE

72. *Consignment*—(*i*) Under rule 24 of the Statutory Rules under the Madras Estates Land Act the finally published record-of-rights has to be made over to the Collector of the district. Under section 166 (2B) of the Madras Estates Land Act, read with rule 14 of the Statutory Rules, 3 copies of the record-of-rights have been prepared—one for supply to the karanam, the second for supply to the land-holder and the third to the ryot concerned. The copies meant for the land-holder and the ryot were handed over at the time of final publication of the record-of-rights. After abolition of the estates the copies of the record-of-rights meant for the land-holder were given to the Tahasildars. The original record-of-rights meant for preservation in the Collectorate Record-Room were deposited in the Collectorate Record-Room at Chatrapur.

(*ii*) The nature of papers prepared during the major settlement operation has been shown in Appendix II. The Board of Revenue ordered that out of the records prepared the following records should be destroyed after observing certain formalities:—

(1) Draft khatian

(2) Khasra and yaddast

(3) Survey khaka

(4) Draft rent-roll.

(5) Munsarim Nathi

(6) Draft khewat

(7) Working Plot Index

(8) Draft Record of Irrigation Rights

(9) Draft terij

(10) Notices ralating to proceedings under section 175.

Before actual destruction of the records, notices were issued in the Press as well as in the *State Gazette* informing the public that the records would be destroyed after six months from the date of publication of the notice and any person desiring copies of such records should apply for the same in the meantime.

(*iii*) The following records were ordered to be preserved:—

(1) Final Plot Index

(2) Final Record of Irrigation Rights

(3) Final khewat

(4) Final record-of-rights with specimen signature

(5) Terij

(6) Rent Proceeding Nathi

(7) Descriptive Memoir

(8) Inam Register

(9) Stone Register

(10) Stone khaka

(11) Taram Register

(12) Reports and judgments on revision petitions

(13) Proceedings under section 175 of the Madras Estates Land Act excluding notices

(14) Objection cases under section 166(1) of the Madras Estates Land Act

(15) Objection cases under section 169(1) of the Madras Estates Land Act

(16) Proceedings under section 170(2) of the Madras Estates Land Act

(17) Reports and judgments under section 171 of the Madras Estates Land Act

(18) Boundary dispute cases including appeals

(19) Village maps with supplemental sheets

(20) Proceedings under section 205 of the Madras Estates Land Act

Out of these preservable records, serials 1 to 7 were ordered to be bound together subject to a maximum number of 150 pages in one volume. Where the pages exceeded 150, serials 1 to 5 were kept in one volume and the remaining items (i. e., 6 and 7 and some pages of record-of-rights exceeding 150 pages, if any, with terij) were kept in separate volume or volumes. Where however, there was time-lag between final publication and rent settlement especially in case of inam villages the preservable records which were prepared before final publication, i. e., plot index, record of irrigation rights, record-of-rights with suchipatra and terij were bound up before rent settlement. The rent settlement proceeding and the descriptive memoir in such cases were, therefore, bound up in a separate volume even if the number of pages of the first volume containing the items mentioned above did not exceed 150. The remaining records were consigned in original without being bound up. The objection case records and

proceedings under sections 175 and 205 were classified as A, B and C class papers according to Bihar and Orissa Survey and Settlement Manual and Bihar and Orissa Records Manual with slight modification to accommodate peculiarities in records prepared under the Madras Estates Land Act and Madras Survey and Boundaries Act and consigned in bundles. The Taram Register which shows the classification of each plot was ordered to be preserved permanently with the specific object that the classification of each plot which is not available in the record-of-rights for the reasons given in para. 39 can be known from this register.

(*iv*) Up to the 1st March 1963 the position regarding destruction and preservation of records is as follows:—

(*a*) Out of 2,115 villages the records of 1,587 villages have been destroyed and the preservable records have been consigned to the Collectorate.

(*b*) Sorting of destroyable records and binding of preservable records have been completed in respect of another 56 villages.

(*c*) 323 minor settlement villages have been completed from sorting but consignment was held up pending preparation of fresh copies of maps for reproduction (*See* also para. 15 of Chapter II). They will be consigned shortly.

(*d*) Two villages completed from sorting have been held up from consignment for correction of records pending clarification in orders in revision petitions.

(*e*) Sorting has not been taken up in 1 village for which the period for filing of revision petition is not yet over.

(*f*) Sorting of records of 146 villages has not been taken up as these villages are pending for work in different stages as stated in Appendix I.

73. *Maintenance*—(*i*) The copies given to the land-holder and the Karnam are meant for maintenance whereas the original record-of-rights preserved in the Collectorate Record-Room is not meant for maintenance. After abolition of the estates the land-holders' copies have been given over to Tahsildars concerned and where the record-of-rights was finally published before abolition of the estate concerned, the land-holders' copy might have been received by the Tahsildars concerned from the land-holders. After abolition of the estates the responsibility for maintenance of land records has fallen on the Government and the Tahsildars are solely responsible for it. Maintenance of record-of-rights is as important as its preparation. Regular maintenance of record-of-rights can dispense with periodical revision of survey and record-of-rights. Without day-to-day maintenance it would not be possible to have a correct rent-roll and so realization of rent from the ryots would be difficult. The record-of-rights prepare at such a huge cost and labour would lose much of its value if the records are not maintained up-to-date. Government have already felt the urgent need for establishing a permanent organisation for maintenance of land records in every district and for this the post of a Superintendent of Land Records has been created at the headquarters station of each district to help the Collector in proper maintenance of land records.

(*ii*) The system of maintenance of land records has never been put on a legal footing either in North Orissa or in the South Orissa. The question of maintenance in Bengal, Bihar and Orissa was discussed at great length by the then Government and various experiments were carried on bewteen the years 1904 and 1912. The revision settlement of Orissa between the years 1906 to 1912 was primarily undertaken to clear the way for the continuous maintenance of land records. Ultimately the Provincial Government recommended to the Government of India the abandonment of maintenance scheme in Orissa. Therefore, the Orissa Tenancy Act does not contain any provision regarding compulsory maintenance of land records by the landlords. Where Government was the landlord as in case of Banki and Khurda Khas Mahals, the Government Estate Manual contain a set of executive instructions regarding maintenance of land records and effecting subsequent changes in the holdings by way of succession and transfer, etc., in the record-of-rights. As in case of the Orissa Tenancy Act, the Madras Estates Land Act also did not contain any provision regarding maintenance of land records. The land-holders were not bound to mutate the names of the transferees in their copies of the khatians. But in their own interest for facility of collection of rent, the land-holders of Ganjam were following a certain system with varying details from estate to estate in the maintenance of records. The karanams in the proprietary estates were the main agents in effecting mutations. But there was general negligence and so records that were kept were always out of date. There was also some legal difficulty in making corrections in the map [this legal difficulty continued till passing of the Orissa Survey and Settlement (Amendment) Act, 1962] as the plot boundaries once made final under section 13 of the Madras Survey and Boundaries Act could not be altered due to subsequent changes in the field. Appendix No. XIII of the Madras Survey Manual, Volume I, prescribes that the village map should not be altered for changes in the field boundaries. If a portion of field No. 1 is found after the map is finalised to belong to the owner of the adjoining field No. 2 it should not be included in field No. 2 but made a subdivision of field. No. 1.

There are, however, elaborate rules for maintenance of land records for the ryotwari areas of Ganjam and they are embodied in Board's Standing Orders, Volume II, and the Manuals of Taluk and Village Accounts. As already started these rules are a set of executive instructions only having no legal authority. The rules are so exhaustive, detailed and minute in their character that they are apt to be forgotten in the sea of details and hardly the maintenance rules were ever observed. The system of maintenance of land records in the ryotwari areas will be discussed in the final report of the ryotwari settlement.

(*iii*) The system of maintenance of land record has since been put on a legal footing throughtout Orissa by passing of the Orissa Survey and Settlement Act, 1958. Sub-section 2 of section 16 of the Orissa Survey and Settlement Act, 1958 as amended by Act VII of 1962, says that in order to keep the map and the record-of-rights up-to-date the same may be maintained in the prescribed manner. Chapter IV of the Orissa Survey and Settlement Rules, 1962, prescribes the manner of maintenance of the record-of-rights and the map. In order to give the maintained copy of the record-of-rights and the map the legal status which they deserve it has been provided in rules 29 and 55 that the finally published record-of-rights shall ramain in the custody of the Tahsildar and this record-of-rights which is with the Tahsildar has to be maintained in the prescribed manner as provided in section 16 (2). Previously the system was to give the original record-of-rights to the Collector which is not to be maintained and a copy of the record-of-rights to the Tahsildar which is meant for maintenance. Under the rules now prescribed in the Orissa Survey and Settlement Rules, 1962, the original record-of-rights has to be maintained and the maintained copy containing the changes ordered during mutation proceedings under attestation of the

Tahsildar shall be deemed to be a record-of-rights finally published under the Orissa Survey and Settlement Act, and such a maintained copy has all the statutory presumptions of correctness which are attached to the original record-of-rights in section 13(3) of the Orissa Survey and Settlement Act. There is provision in rules 45 and 46 of the Orissa Survey and Settlement Rules, 1962, for complete rewriting of the record-of-rights and replacement of the map by the Collector when he considers that due to incorporation of numerous changes in them they have become unfit for further use and such rewritten record-of-frights and reprepared maps will be deemed to be the original record-of-rights. The record-of-rights and the maps prepared under any other law before coming into force of the Orissa Survey and Settlement Act will be deemed to be the record-of-rights finally published under the Orissa Survey and Settlement Act and will be maintained under the Orissa Survey and Settlement Act and the rules framed thereunder. So all the previous difficulties regarding maintenance of records has now been removed by the passing of the Orissa Survey and Settlement Act, 1958, as amended by Act 7 of 1962. Detailed executive rules regarding mutations, maintenance and superintendence of land records are under preparation. What is required henceforward is the implementation of rules. It is hoped that the record-of-rights handed over to the Tahsildars and the karanams will henceforward be maintained under the statutory obligation cast upon them by the Orissa Survey and Settlement Act and the Rules framed thereunder.

## CHAPTER VIII

## COST AND RECOVERY

74. *Procedure in the Minor Settlement*—The initiation of survey and record-of-rights operation must be preceded by a Government order. The Government may make the order (1) either on the application of the land-holder or ryots or (2) on their own initiative or (3) at the instance of the Court of Wards where the Court of Wards is in management. In the minor settlement operations generally survey and record-of-rights operations were initiated only on the application of the land-holder or ryots on depositing or giving security for such amount for the payment of the expenses of the operations as the Government directed. Under section 180 of the Madras Estates Land Act, the whole net cost of the settlement operation is recoverable from the land-holder and the ryots in such proportion as Government having regard to all the circumstances may determine. The principles of apportionment and recovery of cost in the minor settlement operation was as follows :—

The total extent of lands was classified under the following tenures :—

(1) Ryoti occupied, (2) Subsequent inams, (3) Subsequent service inams, (4) Ryoti unauthorised occupation, (5) Ryoti unoccupied, (6) Government resumed inams, (7) Pre-settlement inams, (8) Porambokes, (9) Private lands.

The extent covered by tenures (6) to (9) were excluded from the total extent of the villages for purpose of cost calculation and the cost incurred apportioned on the remaining cultivable areas, taking one acre of wet land to be equal to two acres of dry or manavari (rainfed) lands. The tenant was required to bear one-half and the land-holder the other half. Following this rule the share of kudivaramdars in respect of tenures (1) and (2) was to be borne by the ryots and that of the melavaramdar by the land-holder. For lands covered by tenures (3) the service inamdars paid the share of the kudivaram and the land-holder the share of the melavaram. For lands under tenures (4) and (5) both the shares were borne by the land-holder.

75. *Procedure in Major Settlement operation*—The Government of Orissa in the year 1937 ordered to take up survey and settlement operations in Ganjam *suo motu* under the Bihar and Orissa method which was considered to be less costly. The villages taken up in the major settlement operations were scattered throughout the district and were taken up in convenient blocks. The principle of calculation of cost as followed by the Madras Government in respect of villages under minor settlement operation was also followed by the Orissa Government in respect of villages under the major settlement operation. The only difference was in the system of maintenance of accounts. In minor settlement villagewar accounts were maintained whereas in major settlement blockwar accounts were maintained. Under the Madras Estates Land Act, preparation of record-of-rights and settlement of rent are two distinct operations. The costs of preparation of record-of-rights and rent settlement were separately calculated for each estate and block. The principles of apportionment of cost between the ryots and land-holders for each Block were approved by the Government on a reference made by the Settlement Officer.

76. *Details of apportionment*—In order to determine the rates at which costs were to be recovered from the land-holders and ryots, registers shwoing the overhead charges (pertaining to head office establishment and officers) and specific charges (pertaining to camps) were maintained. After the final publication of record-of-rights or republication, as the case may be, these registers were totalled and the total overhead charges were distributed over the respective Blocks under operation in proportion to the specific charges. After including the pensionary contribution, leave salary, cost of stationery and reproduction of maps, etc., and deducting the total receipts in cash and those in the shape of court fees, the net expenditure was arrived at. This divided by the computed areas was the rate per acre. On the basis of this rate the recess section worked out the dues on each holding in a village and this was divided half and half between the ryot and land-holder. The dues of land-holder for each village and the whole estate was also worked out. The rates for different estates in each block is given in the statement below :—

| Sl. No. | Name of the estate | Block A | Block B | Block C | | Rent Settlement Block | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | I | II | I | II | III | IV | V |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| | | Rs. As. Ps. | Rs. As. Ps. | Rs. As. Ps. | Rs. As. Ps. | Rs. As. Ps. | Rs. As. Ps. | Rs. As. Ps. | Rs. As. Ps. | Rs. As. Ps. |
| 1 | Khallikote .. | .. | 0 10 0 | 3 1 6 | .. | .. | .. | .. | 2 15 2 | .. |
| 2 | Athagada .. | 2 1 7 | 1 0 3 | 2 5 9 | .. | .. | .. | .. | 3 5 0 | .. |
| 3 | Dharakote .. | 1 5 0 | .. | .. | 7 10 1 | 5 7 2 | 3 1 9 | .. | .. | .. |
| 4 | Jarada .. | .. | .. | 3 5 10 | .. | .. | 3 0 6 | .. | .. | .. |
| 5 | Surangi .. | .. | .. | .. | 4 5 0 | .. | 3 2 6 | .. | .. | .. |
| 6 | Chikiti .. | .. | 0 11 0 | .. | 2 12 6 | 5 3 2 | 2 14 3 | .. | .. | .. |
| 7 | Biridi .. | .. | .. | 1 13 6 | 2 15 7 | .. | .. | 2 14 7 | 3 9 6 | 3 10 9 |
| 8 | Badakhemedi .. | .. | 0 10 3 | .. | 2 8 0 | 3 14 8 | 2 12 5 | .. | .. | .. |
| 9 | Sanakhemedi .. | .. | .. | .. | 4 3 3 | .. | 2 10 8 | .. | .. | 2 13 6 |
| 10 | Aska Malkudari | .. | .. | 3 7 0 | 5 4 10 | .. | 3 9 1 | .. | .. | 2 4 2 |
| 11 | Humma .. | .. | .. | .. | .. | 4 13 10 | .. | .. | .. | .. |
| 12 | Palur .. | .. | .. | 1 3 7 | 2 8 0 | .. | 3 5 3 | .. | .. | .. |
| 13 | Bodogoda .. | .. | .. | .. | 4 11 3 | .. | 3 13 4 | .. | .. | .. |
| 14 | Sheragada .. | .. | .. | 3 8 4 | .. | 4 10 3 | .. | .. | .. | .. |
| 15 | Mahanadpur .. | .. | .. | .. | 4 7 9 | .. | .. | .. | .. | .. |
| 16 | Bondhotolo-Nuagan. | .. | .. | .. | 1 15 9 | .. | .. | .. | .. | .. |
| 17 | Jharapada .. | .. | .. | .. | 0 13 7 | .. | .. | .. | .. | .. |
| 18 | Beruabadi .. | .. | .. | .. | 8 9 5 | .. | 3 5 3 | .. | .. | .. |
| 19 | Dwargan .. | .. | .. | .. | 1 15 6 | .. | .. | .. | .. | .. |

The demand of each estate in respect of the villages for which demand lists were prepared and sent to the Collector of Ganjam is given below :—

| Serial No. | Name of the Estate | Total number of villages | Amount to be recovered from the ryots and occupants other than land-holders | Amount to be recovered from the land-holders | Total |
|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | Rs. As. Ps. | Rs. As. Ps. | Rs. As. Ps. |
| | **Block A—184 villages** | | | | |
| 1 | Dharakote .. | 110 | 18,549 5 11 | 24,659 1 2 | 43,208 7 1 |
| 2 | Athagada .. | 74 | 30,259 8 11 | 31,783 5 5 | 62,042 14 2 |
| | Total .. | 184 | 48,808 14 10 | 56,442 6 5 | 1,05,251 5 3 |
| | **Block B—441 villages** | | | | |
| 1 | Athagada .. | 64 | 6,522 6 11 | 7,666 7 5 | 14,188 14 4 |
| 2 | Khallikote .. | 166 | 13,238 10 6 | 18,064 15 3 | 31,303 9 9 |
| 3 | Chikiti .. | 92 | 19,341 8 10 | 20,593 13 10 | 39,935 6 8 |
| 4 | Badakhemedi .. | 119 | 17,142 6 4 | 23,044 3 9 | 40,186 10 1 |
| | Total .. | 441 | 56,245 0 7 | 69,369 8 3 | 1,25,614 8 10 |
| | **Block C previously surveyed area—114 villages** | | | | |
| 1 | Biridi Estate .. | 67 | 8,907 4 7 | 15,372 2 6 | 24,279 7 1 |
| 2 | Palur Estate .. | 1 | 47 10 10 | 134 14 1 | 182 8 11 |
| 3 | Khallikote .. | 14 | 2,395 5 9 | 2,511 4 2 | 4,906 9 11 |
| 4 | Jarada .. | 24 | 863 15 0 | 1,958 13 0 | 2,822 12 0 |
| 5 | Kalosandhapur .. | 1 | 428 2 11 | 458 10 0 | 886 12 11 |
| 6 | Sheragada .. | 30 | 10,868 7 5 | 14,662 5 10 | 25,530 13 3 |
| 7 | Athagada .. | 7 | 915 13 2 | 945 8 3 | 1,861 5 5 |
| | Total .. | 144 | 24,426 11 8 | 36,043 9 10 | 60,470 5 6 |

[ 44 B, of R.—17 ]

| 1 | 2 | 3 | 4 | | | 5 | | | 6 | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Rs. | a. | p. | Rs. | a. | p. | Rs. | a. | p. |
| | **Block C unsurveyed area—389 villages** | | | | | | | | | | |
| 1 | Palur .. | 16 | 3,126 | 6 | 3 | 7,538 | 2 | 6 | 10,664 | 8 | 9 |
| 2 | Bondhotolo Nuagan .. | 1 | 139 | 3 | 9 | 189 | 3 | 10 | 328 | 7 | 7 |
| 3 | Jharapadar .. | 1 | 3 | 10 | 9 | 90 | 10 | 11 | 94 | 5 | 8 |
| 4 | Biridi .. | 3 | 556 | 10 | 8 | 620 | 0 | 7 | 1,176 | 11 | 3 |
| 5 | Mahanadapur .. | 1 | 651 | 3 | 2 | 651 | 4 | 7 | 1,302 | 7 | 9 |
| 6 | Chikiti .. | 1 | 113 | 12 | 9 | 127 | 1 | 5 | 240 | 14 | 2 |
| 7 | Dwaragan .. | 1 | 109 | 3 | 8 | 220 | 3 | 10 | 329 | 7 | 6 |
| 8 | Surangi .. | 91 | 12,107 | 4 | 0 | 17,274 | 8 | 9 | 29,381 | 12 | 9 |
| 9 | Sanakhemedi .. | 100 | 45,498 | 3 | 3 | 55,732 | 6 | 1 | 1,01,230 | 9 | 4 |
| 10 | Badogoda .. | 120 | 30,631 | 8 | 6 | 48,044 | 8 | 1 | 78,676 | 0 | 7 |
| 11 | Badakhemedi .. | 10 | 1,528 | 6 | 5 | 2,554 | 2 | 0 | 4,082 | 8 | 5 |
| 12 | Athagada .. | 1 | 429 | 11 | 6 | 486 | 8 | 1 | 916 | 3 | 7 |
| 13 | Dharakote .. | 8 | 771 | 11 | 10 | 1,184 | 9 | 2 | 1,956 | 5 | 0 |
| 14 | Aska Malikdari .. | 26 | 12,778 | 4 | 11 | 15,549 | 14 | 0 | 28,328 | 2 | 11 |
| | Total .. | 389 | 1,08,445 | 5 | 5 | 1,50,263 | 3 | 10 | 2,58,708 | 9 | 3 |
| | **Rent Settlement Block I—Surveyed area—391 villages** | | | | | | | | | | |
| 1 | Palur .. | 1 | 127 | 6 | 5 | 127 | 6 | 5 | 254 | 12 | 10 |
| 2 | Chikiti .. | 92 | 10,449 | 8 | 10 | 10,449 | 8 | 9 | 20,899 | 1 | 7 |
| 3 | Humma .. | 6 | 4,312 | 10 | 7 | 4,312 | 10 | 0 | 8,625 | 5 | 3 |
| 4 | Sheragada .. | 29 | 11,983 | 2 | 1 | 11,983 | 1 | 8 | 23,966 | 3 | 9 |
| 5 | Dharakote .. | 121 | 37,075 | 10 | 5 | 37,075 | 9 | 0 | 74,151 | 3 | 5 |
| 6 | Badakhemedi .. | 142 | 46,519 | 11 | 0 | 46,519 | 11 | 0 | 93,039 | 6 | 0 |
| | Total .. | 391 | 1,10,468 | 1 | 4 | 1,10,467 | 15 | 6 | 2,20,936 | 0 | 10 |
| | **Rent Settlement Block II—Surveyed area—100 villages** | | | | | | | | | | |
| 1 | Aska .. | 2 | 1,027 | 14 | 0 | 1,027 | 14 | 0 | 2,055 | 12 | 0 |
| 2 | Chikiti .. | 2 | 482 | 4 | 5 | 482 | 4 | 4 | 964 | 8 | 9 |
| 3 | Jharapadar .. | 1 | 8 | 4 | 4 | 8 | 4 | 4 | 16 | 8 | 8 |
| 4 | Mahanadapur .. | 1 | 477 | 12 | 3 | 477 | 12 | 4 | 955 | 8 | 7 |
| 5 | Bondhatala Nuagan .. | 1 | 222 | 11 | 2 | 222 | 11 | 3 | 445 | 6 | 5 |
| 6 | Jarada .. | 37 | 6,272 | 7 | 3 | 6,272 | 6 | 11 | 12,544 | 14 | 2 |
| 7 | Dharakote .. | 44 | 9,266 | 12 | 4 | 9,266 | 12 | 2 | 18,533 | 8 | 6 |
| 8 | Badakhemedi .. | 12 | 2,365 | 10 | 5 | 2,365 | 10 | 3 | 4,731 | 4 | 8 |
| | Total .. | 100 | 20,123 | 12 | 2 | 20,123 | 11 | 7 | 40,247 | 7 | 9 |

| 1 | 2 | 3 | 4 | | | 5 | | | 6 | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Rent Settlement Block II—Unsurveyed area—372 villages | | | | | | | | | | |
| | | | Rs. | a. | p. | Rs. | a. | p. | Rs. | a. | P. |
| 1 | Aska Malikdari .. | 26 | 8,021 | 0 | 2 | 8,021 | 0 | 2 | 16,042 | 0 | 4 |
| 2 | Palur .. | 15 | 3,626 | 9 | 8 | 3,626 | 9 | 9 | 7,253 | 3 | 5 |
| 3 | Surangi .. | 104 | 12,585 | 11 | 5 | 12,585 | 11 | 10 | 25,171 | 7 | 3 |
| 4 | Sanakhemedi .. | 100 | 24,325 | 2 | 1 | 24,325 | 1 | 10 | 48,650 | 3 | 11 |
| 5 | Berhuabadi .. | 1 | 166 | 7 | 0 | 166 | 7 | 1 | 332 | 14 | 1 |
| 6 | Badagada .. | 126 | 21,914 | 6 | 6 | 21,914 | 5 | 10 | 43,828 | 12 | 4 |
| | Total .. | 372 | 70,639 | 4 | 10 | 70,639 | 4 | 6 | 1,41,278 | 9 | 4 |
| | Abstract | | | | | | | | | | |
| | Block C—Previously surveyed area | 144 | 24,426 | 11 | 8 | 36,043 | 9 | 10 | 60,470 | 5 | 6 |
| | Block C —Unsurveyed .. | 389 | 1,08,445 | 5 | 5 | 1,50,263 | 3 | 10 | 2,58,708 | 9 | 3 |
| | R. S. Block I—Surveyed area .. | 391 | 1,10,468 | 1 | 4 | 1,10,467 | 15 | 6 | 2,20,936 | 0 | 10 |
| | R. S. Block II—Surveyed area .. | 100 | 2,20,123 | 12 | 2 | 20,123 | 11 | 7 | 40,247 | 7 | 9 |
| | R. S. Block II—Unsurveyed area | 372 | 70,639 | 4 | 10 | 70,639 | 4 | 6 | 1,41,278 | 9 | 4 |
| | Block A .. | 184 | 48,808 | 14 | 10 | 56,442 | 6 | 5 | 1,05,251 | 5 | 3 |
| | Block B .. | 441 | 56,245 | 0 | 7 | 69,369 | 9 | 3 | 1,25,614 | 8 | 10 |
| | Grand Total .. | 2,021 | 4,39,157 | 2 | 10 | 5,13,349 | 11 | 11 | 9,52,506 | 14 | 9 |

The total demand due from the occupants was Rs. 4,39,157-2-10 and from the land-holders Rs. 5,13,349-11-11. This has been calculated up to 31-5-53 when all the zamindaries and the proprietary estate vested in Government.

77. *Amount shown as not recoverable from the land-holder and ryots though charged from the Settlement Budget*—The Settlement Officer, Mr. F. E. A. Taylor, Esqr., I. C. S., visited Ranapur ex-State now in Puri district with the permission of the Revenue Commissioner to assist the Political Agent, Sambalpur, to organise the settlement operation of the State. The Government of Orissa in the Revenue Department ordered that this item of expenditure should not be recovered from the Darbar or from the parties in Ganjam and Koraput Settlement and that it would be borne by the Government.

On amount of Rs. 2,220 was incurred for preparing the statistics required by the Special Officer of Shri Jagannath Temple Act under the orders of the Board and instructions were solicited from the Board regading the manner of adjustment of this amount as this amount could not be legally included in he accounts to be recovered from the land-holders and ryot. The Board of Revenue ordered that the charge was debitable to "7—Land Revenue, Ganjam Settlement" but should not be included in the amount computed for recovery from the parties as charges in connection with settlement operations.

The Settlement Officer, Ganjam, was also the Settlement Officer, Koraput. He was going on tour to Koraput almost every month and the Steno to Settlement Officer and two orderly peons were following him. Besides this some clerks and peons were also going to Koraput on urgent work as and when necessary under orders of the Settlement Officer. In order to maintain fair and equitable apportionment, 1/3rd of the pay of Settlement Officer, Steno. to Settlement Officer, two orderly peons and the actual T. A. of Settlement Officer, Steno. to Settlement Officer, two orderly peons and the other staff who happened to go on urgent work to Koraput Settlement was being separated and reported to the Charge Officer, Koraput Settlement for inclusion in the connected registers of that Settlement every year and this amount was excluded from the apportionment registers of this office.

78. *Recovery of cost*—Demand lists showing the amount recoverable from the land-holders and the ryots in each village were sent to the Collector of Ganjam after the final publication and republication of record-of-rights for realisation from the persons concerned as arrear of land revenue under the provisions of the Madras Revenue Recovery Act, 1864, unlike the system of North Orissa Settlement where settlement charges were recovered by the Settlement Department at the time of distribution of copies of records. The Collector sent these demand lists to the respective Taluk Officers for collection. During the recovery proceedings of the settlement cost by the Revenue Department, the land holder of Badagada objected to the settlement cost of Rs. 48,044 and odd as recoverable from him and filed a writ of *Mandamus* under Article 226 of the Constitution of India before the

Honourable High Court of Orissa as stated in paragraph 12 of Chapter II. In the said writ case the principle and manner of apportionment of cost between the land-holder and the ryots have been sharply criticised by the High Court, an extract of which is quoted below:—

"The question whether a proprietor can be made to meet the expenses incurred for the survey of his estate undertaken *suo motu* by Government under section 17(*b*) (*ii*) of the Madras Survey and Boundaries Act, 1923 was argued at some length. It was contended by the learned Advocate-General that even when a survey is undertaken by Government under section 17 (*b*) (*ii*) of the Act, the costs of the survey may be recovered from the proprietor under section 19 of the Act, read with section 180 of the Madras Estates Land Act. Section 19 of the Survey and Boundaries Act says that "the cost of a survey directed under clause (*b*) (*i*) of (*ii*) and section 17 shall be borne by the local Government unless otherwise provided by any law for the time being in force". It was argued that the provision in section 180 of the Madras Estates Land Act is a special provision and should prevail over the general provision in section 19 of the Madras Survey and Boundaries Act. This contention is not without force but it is not necessary to test its validity in this case. Counsel for the petitioner, on the other hand, pointed out that even if that contention were to be accepted, the apportionment of the charges in the proportion of half and half between the petitioner and his ryots is inequitable as it was not "determined" as enjoined in section 180 "having regard to all the circumstances". The use of the word "determine" in section 180 would seem to indicate that Government must exercise the statutory power and act with discretion. Where this is not done and in a *bona fide* manner the Court can interfere. The statutory power vested in Government does not enable it to act as it pleases. This is clear from the use of the expression "having regard to all the circumstances". As I understand it, the expression means that Government shall take into consideration all the circumstances before deciding who should bear, what proportion of such charges. It must be remembered that the survey as well as the record-of-rights were forced upon the Proprietor. The Estate has now vested in the Government by virtue of the provisions of the Orissa Estates Abolition Act; and the benefits of the survey as well as of the record-of-rights are lost to the proprietor as such. These are some of the circumstances which Government have failed to take into consideration. They appear to have simply adopted the recommendation of the Settlement Officer and failed to exercise the statutory powers in accordance with section 180 of the Madras Estates Land Act.

It was next contended, on behalf of the petitioner, that the power vested in Government to apportion the expenses implies that it has to prove in the first place that the money spent was expended in accordance with law, for in that case alone the State will be entitled to recover it from the party for whose benefit the money was spent, and in the second place that the expenses have actually been incurred. If the Government could, satisfy us that the expenses were lawfully incurred in carrying out the provisions of Chapter XI of the Madras Estates Land Act the Court would not embark upon an idle enquiry into the propriety or extravagance of the expenses so incurred. Otherwise, Government would be able to wield an aboslutely despotic power which the Legislature never intended that it should exercise. It was conceded by the learned Advocate-General that the manner in which the Settlement Officer proposed to apportion the expenses is open to objection and cannot be wholly justified. The exclusion of Government lands including resumed inam lands, pre-settlement inam lands and communal porambokes from the total expenditure incurred and the distribution of costs over the rest of the lands can hardly be justified as proper or equitable. Similarly, in the case of the private lands of the land-holder the cost of the proceeding under section 183 of the Madras Estates Land Act are to be "apportioned among the parties to the proceedings in proportion to the area which, after the finding may be found to have been wrongfully claimed by each party" according to the statutory rule 5 framed under section 183 of that Act. There is no indication in the records that this principle was kept in view in recommending that the entire cost of the survey of the private lands to the proprietor should be borne by the land-holder. "Apportionment" does not denote division but frequently connotes distributions. Government do not give any reason why the cost should have been directed to be divided equally and not proportionately distributed according to the interests of the parties concerned. The petitioner complains that since the passing of the Orissa Tenants' Protection Act the share of rent that he was entitled to collect had been considerably reduced and that the apportionment of the expenses, if justifiable at all, should be made according to the quantom of interest he has in the land. This argument appears to me to be perfectly reasonable and equitable. I should observe, however, that it is not the function of this Court to indicate what should have been done in this case. The task of apportionment, must be left to the Government to decide, according to their discretion after taking every factor into consideration."

As a result of this defect and several others pointed out by the High Court, the settlement operation in original settlement villages was declared invalid. This necessitated the passing of "the Ganjam-Koraput Survey, Record-of-rights and Settlement Operation Validation Act, 1956 (Orissa Act 7 of 1956)" by the Orissa Assembly as a result of which the irregularities committed in the course of the settlement proceedings were validated.

79. *Collection of Settlement Chagres suspended*—After the survey and settlement operations were decalred illegal by the Honourable High Court in the Bodogada writ case, the Government ordered that the cost of the settlement operations should not be recovered from the ryots and land-holders of Ganajm and Koraput districts until further orders. Finally the Government in their letter No. 40094—S-36/62-R., dated the 29th August 1962 ordered as follows:—

" In supersession of all previous orders on the subject noted above Government have been pleased to order that the demand for survey and settlement charges from the ex-proprietors and tenants of Ganjam and Koraput districts which are realisable under the provisions of Madras Estates Land Act including the settlement cost amounting to Rs. 2,26,945-6-3 decreed by the High Court against the Zamindar of Jeypore should be waived and such cost already realised from the tenants of the aforesaid two districts and ex-proprietors of Ganjam district should be refunded. But the question of actual refund of the settlement cost to the ex-zamindary of Jeypore does not arise as no such cost has been realised from him.

2. Government have also been pleased to order that instead of making actual refund to the tenants and the ex-proprietors of the aforesaid two districts, the same should be adjusted against rent payable by them either towards their arrear or future rents or adjusted against their certificate dues subject to a deduction of 10 per cent of the charges being made for the clerical work involved in making the adjustments".

80. *Present law regarding recovery of settlement cost*—The Orissa Survey and Settlemtnt Act, 1958 repealed the relevant provisions in other Acts of the State regarding recovery of survey and settlement costs. There is no provision in this Act for levy and realisation of survey and settlement costs from the persons interested in the land

of the tract under survey and settlement where the operations are ordered *suo motu* by Government. It is only when the operations are ordered on the request of any (*i*) Local Authority or (*ii*) on the request of not less than one-half of the total number of ryots having land in the village that provision has been made for assessment, realisation and apportionment of costs. The Orissa Taxation Enquiry Committee has recommended that since an up-to-date record-of-rights benefits both the State and the tenants cost should be shared by them equally.

81. *Estimate of the cost of the operation*—The Major Settlement Operation in Ganjam district started in the year 1938 but had to be temporarily stopped due to War in the year 1942. The operations were resumed in 1947 and continued with varying breaks till the 31st July 1960 and on the 1st August 1960 they were merged in the Major Settlement Operation initiated for taking up Survey and Settlement Op rtions in the ryotwari and other remaining areas of the district.

The original estimate submitted to Government in 1937 by the then Settlement Officer, Gajnam was that the settlement would involve a gross expenditure of Rs. 6,45,062. As against this the actual expenditure incurred from 1937-38 to 1942-43 and again from 1947-48 up to the 31st July 1960 is Rs. 25,96,009·88 nP. The great difference in the original estimated amount and the actual expenditure is due to the fact that the original estimate was only a rough one based on pre-war-wages. The estimate did not include the indirect expenditure on account of traverse survey, contribution towards leave and pension of officers employed in the operation and proportionate cost of control by Director of Land Records and his office staff as the expenditure on these heads could not be foreseen. The estimate was made on the presumption that the average area of a village would be 2/3rd square mile and average number of plots in each village would be about 533 and it was prepared only for the unsurveyed villages of the Ganjam Zamindary tracts and did not include the surveyed villages as well as the inam villages subsequently included in the programme.

In North Orissa provincial settlement the rate was Rs. 634 per square mile and in the revision settlement the cost was only Rs. 211 per square mile. The net cost of the last North Orissa Revisional Settlement was Rs. 893 per square mile. The gross cost of Ganjam Major Settlement Operation is Rs. 1,524·37 nP. and the net cost is Rs. 1,490·85 nP. per square mile. The area under settlement covered about 12 lakh plots. The gross expenditure works out at Rs. 216·33 nP. and net expenditure at Rs. 211· 58 nP. per 100 plots.