

THE PUNJAB ABADI DEH (RECORD OF RIGHTS) BILL, 2021.

AIMS AND OBJECTS.

The *abadi deh* area in Punjab is not assessed to land revenue. This area has remained without recording of rights of the proprietors, preparation of record, or the marking of boundaries by carrying out a survey. This has over the years resulted in disputes about demarcation of boundaries and identification of rights in the dwelling and other areas; besides causing hardship in the effective transfer of rights.

The object of this Act is to identify, record and resolve the existing rights of the proprietors within the *abadi deh* by a process of ascertaining the person (s) best entitled to be recorded as proprietor; besides, demarcating, delineating the boundaries and areas of each survey unit. It is to create a presumption of truth in the records so prepared.

The preparation of this record would provide for development of the *abadi deh* that preserves the heritage of the village to the extent possible, provide and upgrade civic services and environment in villages to integrate them with planned urban development, enhance the land value by improving the lay out and provide a road map for development norms for villages in an easy and simple manner.

THE PUNJAB ABADI DEH (RECORD OF RIGHTS) BILL, 2021.

(Bill No. _____ of 2021)

Dated: ___ ___ 2021.

WHEREAS it is expedient to record existing rights in the properties within the *abadi deh* for the preparation and maintenance of record of rights therein, and other matters incidental thereto, it is enacted by the Legislature of the State of Punjab in the seventy-second year of the Republic of India, as follows: -

CHAPTER I
PRELIMINARY.

1. **Short title and commencement.** - (1) This Bill may be called the Punjab *Abadi deh* (Record of Rights) Bill, 2021.

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

(3) It shall come into force with immediate effect.

Provided that it shall come into effect for the *abadi deh* area falling within the limits of a municipal area on the date as may be notified in this regard.

2. **Definitions.** - In this Bill, unless the context otherwise requires: -

(a) "*Abadi deh*" means the site recorded as such in the Record of Rights prepared and maintained under the Revenue Act, which is not assessed to land revenue and includes such land in a municipal area.

(b) "Appointed day" means the First of January, 2021.

(c) "Assistant Recording and Resolution Officer" means a revenue officer not below the rank of Naib Tehsildar under the Revenue Act or the Executive Officer of the municipal body notified to perform functions under this Act.

(d) "Chief Recording and Resolution Officer" means the Collector of the district under the Revenue Act, notified to perform functions under this Act.

(e) "Commissioner" means the Commissioner of the division under the Revenue Act, notified to perform functions under this Act.

(f) "Common area" means an area or building within the *abadi deh* used for any common need, convenience or benefit of the community and includes roads, paths, streets, public parks, drains, public toilets, ponds, tanks, wells, water courses, playgrounds, bus stand or waiting areas, places of public sittings and gatherings or any such other purpose by the inhabitants of the village, and any vacant site or plot not owned by any person; but does not include a building or area that houses an institution under the control of the Central or State Government.

(g) "Financial Commissioner" means the Financial Commissioner Revenue in the Government notified to perform the functions under this Act.

(h) "Government" means the Government of Punjab in the Department of Revenue, Rehabilitation and Disaster Management.

(i) "Municipal body" means a body constituted under the Punjab Municipal Corporation Act, 1976 (Punjab Act No. 42 of 1976) or the Punjab Municipal Act, 1911 (Act No. 3 of 1911).

(j) "Notification or notified" means a notification published by the Government in the Punjab Government gazette.

(k) "Panchayat" means a Gram Panchayat constituted under the Punjab Panchayati Raj Act, 1994 (Punjab Act No. 9 of 1994).

(l) "Prescribed" means prescribed by Rules framed under this Act.

(m) "Proprietary right" means the right of ownership recorded in the name of a person, panchayat, municipal body, Central or State government, juristic person or other entity but does not include the rights of a tenant, lessee, mortgagee or any other right which does not confer ownership.

(n) "Recording and Resolution Officer" means a revenue officer not below the rank of Sub Divisional Magistrate notified to perform functions under this Act.

(o) "Revenue Act" means the Punjab Land Revenue Act, 1887 (Act No. XVII of 1887).

(p) "Revenue Officer" means a revenue officer exercising the powers under the Revenue Act.

(q) "Survey Officer" means an officer appointed by the Government to act and perform functions under this Act.

(r) "Survey unit" means the area within the *abadi deh*, to which a survey number is assigned under this Act.

(s) "Village Committee" means the committee nominated in the village or municipal area, as the case may be, by the Assistant Recording and Resolution Officer, with its composition as prescribed to identify the ownership of survey units and common areas set apart for common purposes within the *abadi deh*.

(t) Words and expressions used in this Act but not defined herein have the meaning assigned to them under the Revenue Act.

CHAPTER II
OFFICERS AND POWERS.

3. **Officers.** - Subject to the provisions of this Act there shall be the following officers notified to perform the functions and exercise powers under this Act: -

- (a) Financial Commissioner;
- (b) Commissioner;
- (c) Chief Recording and Resolution Officer;
- (d) Recording and Resolution Officer;
- (e) Assistant Recording and Resolution Officer; and
- (f) Survey Officer.

(2) Subject to the provision of this Act, the officers mentioned in clauses (b), (c), (d) and (e) of sub section (1) shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely: -

- (i) the summoning and enforcing the attendance of any person and examining him;
- (ii) requiring the discovery and production of documents;
- (iii) receiving evidence on affidavit;

- (iv) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;
- (v) issuing commissions for the examination of witnesses or document.

4. **Superintendence and control of officers.** - (1) The superintendence and control over all officers in their administrative functioning under this Act shall vest in the Financial Commissioner, and all such officers shall be subordinate to him.

(2) Subject to the superintendence and control of the Financial Commissioner, the Chief Recording and Resolution Officer shall control all other officers under this Act, in his district.

(3) Subject as aforesaid and to the control of the Chief Recording and Resolution Officer, the Recording and Resolution Officer shall control all other officers under this Act, in his sub-division.

CHAPTER III.

SURVEY, MAPPING AND IDENTIFICATION.

5. **Identification of *abadi deh* area.** - The Government may by notification specify any *abadi deh* in a district, sub-division of a district, municipal area or a village as an area for the purpose of identifying, recording and resolving the rights in each survey unit.

6. **Survey and mapping.** - (1) The Government shall appoint a Survey Officer for each area notified under Section 5 of this Act to conduct a survey in the manner as prescribed.

(2) The Government upon notifying areas of which the standing record of rights within an *abadi deh* is to be prepared shall itself or through a notified agency get a survey conducted and mapping done of such area to determine the boundary of the *abadi deh*, define the area and dimensions of each survey unit, and assign a unique survey number to each such unit.

(3) The survey reports and maps prepared of the area shall be submitted to the Assistant Recording and Resolution Officer for the purpose of preparing the standing record of rights in the survey units.

CHAPTER IV.

STANDING RECORD OF RIGHTS AND ITS MAKING.

7. **Standing record of rights.** – There shall be a standing record of rights for each *abadi deh* area, which shall comprise the following: -

- (i) The record of proprietary rights of each survey unit prepared under this Chapter;
- (ii) The survey reports and map prepared under Chapter III of this Act with dimensions;
- (iii) The record of proceedings of the meetings of the Village Committee; and
- (iv) Such other document as may be prescribed or notified.

8. **Inquiry by the Assistant Recording and Resolution Officer.** (1)

The Assistant Recording and Resolution Officer on his being designated as such shall constitute a village committee for identifying the proprietary rights of the proprietors in the survey units.

(2) The Assistant Recording and Resolution Officer in respect of the *abadi deh* of which the standing record of rights is to be prepared shall inform the inhabitants of the area, in the manner prescribed, about the proposal to prepare such record for each of the survey unit.

9. **Preparation of standing record of rights.** – (1) The Assistant

Recording and Resolution Officer after deliberations and consultations with the village committee and hearing the parties interested shall in a summary manner, and as may be prescribed, record the proposed entry of proprietary rights and of the boundaries of the survey unit in the standing record of rights, as on the appointed day.

(2) The entry of proprietary rights shall be recorded by the Recording and Resolution Officer in the name of: -

(i) the owner of the built up dwelling and residential areas including its open or enclosed court yards, other vacant land and plots of owners not being a common area, shops and other establishments;

(ii) the panchayat or municipal body for the common area, vacant land or plot not owned by any person; and

(iii) the Central, State Government, juristic person or other entity in respect of the land or institutions owned by it.

(3) In the conduct of exercise under sub-sections (1) and (2) if a survey unit is found to be sub-divided, which escaped the attention of the Survey Officer, the Assistant Recording and Resolution Officer shall assign a unique number to each such survey unit.

10. **Display of record.** – The survey map prepared by the Survey Officer under Section 6 and the record of entries of proprietors in a survey unit prepared under Section 9 of this Act shall be displayed at a conspicuous place in the village and a copy thereof supplied to the panchayat through the sarpanch of the village or the chief executive of the municipal body, as the case may be and, in the manner, as may be prescribed.

11. **Raising of objections and decision.** – (1) A person aggrieved by the demarcation of any boundary in the survey record, or an entry regarding the proprietary rights in the standing record of rights in a survey unit, may within ninety days of the display of record under Section 10 of this Act file objections about the correctness thereof before the Assistant Recording and Resolution Officer.

(2) The Assistant Recording and Resolution Officer after hearing the parties and perusing the record, if any, shall make necessary correction of the boundaries in the survey map, or ascertain the person best entitled to be recorded as the proprietor in the survey unit, and within sixty days of the expiry of the period under sub-section (1) pass an order in this regard by recording reasons.

Explanation: The recording of the proprietary rights of a person in a survey unit shall not be conclusive proof of ownership and shall be subject to corrections and alterations in appeal or revision under this Act as also the rights so determined by a judgment and order of a court of competent jurisdiction.

(3) An entry recorded in the standing record of rights under Section 9 of this Act, if no objection is filed within the period provided under sub-section (1), shall be treated as final.

(4) The Assistant Recording and Resolution Officer shall thereafter in the manner prescribed publish the record as finalized, which shall incorporate an order that may be passed under sub-section (2).

(5) The standing record of rights finalized by the Assistant Recording and Resolution Officer shall be amended or modified in the event of an order passed under sub-section (4) is set aside, modified or reversed in appeal, review or revision.

CHAPTER V.

APPEAL, REVIEW AND REVISION.

12. **Appeals.** – (1) Any person aggrieved by an order passed by the Assistant Recording and Resolution Officer under Section 11 of this Act may within thirty days of the passing of such order, file an appeal before the Recording and Resolution Officer.

(2) The Recording and Resolution Officer after hearing the parties interested and likely to be affected either accept the appeal or dismiss the same by passing a reasoned order.

(3) Any person aggrieved by an order passed by the Recording and Resolution Officer under sub-section (2) of Section 12 of this Act may within thirty days of the passing of such order, appeal to the Chief Recording and Resolution Officer who shall after hearing the parties interested and likely to be affected either accept the appeal or dismiss the same by passing a reasoned order.

(4) Appeals under sub-sections (2) and (3) shall be decided by the Recording and Resolution Officer and the Chief Recording and Resolution Officer, as the case may be, within sixty days from the date the respondent puts in appearance after notice or is proceeded against *ex parte* unless for reasons to be recorded in writing it is directed otherwise.

(5) An appellate authority shall not remand a case except where it is established from the record that an adverse order has been passed against a necessary party who was not duly served.

13. **Review.** - The Assistant Recording and Resolution Officer, the Recording and Resolution Officer, and the Chief Recording and Resolution Officer may within sixty days of the order sought to be reviewed either on their own motion or on the application of a party interested, after notice to the party likely to be affected and giving reasonable hearing, review, and on so reviewing modify, reverse or confirm, any order passed by himself or his predecessor in office.

Provided that: -

- (i) when an Assistant Recording and Resolution Officer finds it necessary to review any order, he shall first obtain the sanction of the Recording and Resolution Officer;
- (ii) when a Recording and Resolution Officer finds it necessary to review any order, he shall first obtain the sanction of the Chief Recording and Resolution Officer;
- (iii) when a Chief Recording and Resolution Officer finds it necessary to review any order, he shall first obtain the sanction of the Commissioner;
- (iv) when any such order is modified or reversed on review by the Assistant Recording and Resolution Officer, or the Recording and Resolution Officer, an appeal shall lie against the order of the Assistant Recording and Resolution Officer to the Recording and Resolution Officer, and from the order of the Recording and

Resolution Officer to the Chief Recording and Resolution Officer, and the order on such appeal shall be final;

- (v) an order against which an appeal or revision has been preferred shall not be reviewed;
- (vi) an appeal shall not lie from an order refusing or granting permission to review or confirming on review a previous order;

14. **Revision by the Commissioner.** - The Commissioner may on an application of an aggrieved party, within sixty days of an order being passed call for and examine the records relating to any order passed or proceedings taken under this Act for the purpose of satisfying himself as to the legality or propriety of such order or proceedings and after hearing the affected parties may pass such order in relation thereto as he may deem fit and modify, reverse or confirm any order passed under this Act.

15. **Decree or order of the Court.** - An order of an officer passed under this Act shall be subject to a decree or order which may be subsequently passed by a court of competent jurisdiction.

CHAPTER VI.

TRANSFER OF RECORD.

16. **Transfer of record to the District Collector.** - After preparation and finalization of the standing record of rights of the *abadi deh* area it shall be attested by the Assistant Recording and Resolution Officer and transferred to the District Collector for maintaining and revising it under the Revenue Act.

17. The provisions of Chapter IV of the Revenue Act after transfer of the record under section 16 of this Act shall apply *mutatis mutandis* to such record.

CHAPTER VII.

PARTITION.

18. **Partition of survey units.** - Partition of survey units comprised in *abadi deh* may be allowed by a revenue officer after the standing record of rights has been transferred, and only if the partition has been affirmed by all

interested parties with a map showing the proposed partition signed by all persons having proprietary rights.

Provided that the revenue officer after examining such of the co-proprietors of the survey unit and other persons may if he is of the opinion that the survey unit is impartible or the partition is impractical and there is good and sufficient cause why partition should be disallowed, refuse to partition the survey unit by recording the grounds of his refusal.

19. **Disputes as to partition.** – An application for the partition of a survey unit, in the event of a dispute, shall not lie before the revenue officer and the party aggrieved may approach the civil court for partition.

CHAPTER VIII.

MISCELLANEOUS.

20. **Summoning.** - (1) A summons issued by an officer appointed under this Act shall be served:

- (i) personally, on the person to whom it is addressed, or failing him
- (ii) his recognized agent, or
- (iii) an adult member of his family usually residing with him.

(2) The summons may also be served by pasting a copy thereof at the usual or last known place of residence of the person to whom it is addressed.

(3) A summons may, if an officer appointed under this Act so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Chapter VI of the Indian Post Office Act, 1898 (Act VI of 1898), or sent through a reputed courier agency notified by the Government in this regard.

(4) When a summons is so forwarded in a letter, and it is proved that the letter was properly addressed and duly posted and registered, the officer appointed under this Act may presume that the summons was served at the time when receipt of its delivery is furnished.

Provided that in case of a letter sent through registered post, its delivery may be presumed after thirty days if it is not received back undelivered within this period.

(5) A summon may also be served on the person named therein by publication of the contents thereof in a daily Punjabi newspaper having wide circulation.

Provided that if the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may in the first instance and if the officer appointed under this Act so direct, be served by delivery of a copy thereof to such of those persons as the officer appointed under this Act nominates in this behalf, and by publication of the contents thereof in a daily Punjabi newspaper having wide circulation, for the information of the other persons interested.

(6) The summons may also be served through Short Message Service, email, or through other electronic modes at the phone number or e-mail id otherwise known or made known, to the officer appointed under this Act.

Provided that if service is effected through any of the above modes, a printout of the delivery of summons shall be placed on the record.

(7) A notice, order of proclamation or copy of any such document, issued by an officer under this Act for service on any person shall be served in the manner provided in this Section for the service of a summons.

(8) Any of the modes of service provided in Sub-Sections (2), (3), (5) or (6) may be adopted simultaneously in addition to the mode of service provided in sub-section (1) of this Section.

21. **Presumption in favour of entries in the standing record of rights.** - Any entry made in a standard record-of-rights in accordance with the provisions of this Act shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.

22. **Suit for declaratory decree by persons aggrieved by an entry in a record.** - If any person considers himself aggrieved as to any right of which

he is in possession by an entry in a standing record-of-rights, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1963. (Act No.47 of 1963).

23. **Correction of clerical errors.** - Clerical or arithmetical mistakes in any order passed by any officer under this Act may at any time be corrected by the authority concerned either of its own motion or on the application of any of the parties.

24. **Protection of action taken in good faith.** - No suit, prosecution or other legal proceedings shall lie against any officer under this Act or any official acting under the directions of such officer, for anything which is in good faith done or intended to be done under the provisions of this Act or any rule made thereunder.

25. **Power to remove difficulties.** - (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provision, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the Governor.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature.

26. **Exclusion of jurisdiction of Civil Courts.** - Except as otherwise provided in this Act, no Civil Court shall entertain any suit instituted or application made to obtain a decision or order in respect of any matter which the Government or any officer is by this Act empowered to determine or dispose of.

27. **Powers of officers to enter upon land, dwelling and habitation areas, survey units for the purposes of survey and demarcation.** - The officers under this Act and any person acting under their orders may, in the discharge of any duty under this Act, enter upon and survey land, put

and erect survey marks thereon and demarcate the boundaries thereof and do all other such acts necessary for the proper performance of that duty.

28. **Penalty for destruction, dismantling or removal of survey**

marks and demarcation. – (1) If any person willfully destroys, dismantles or without lawful authority removes a survey or demarcation mark lawfully erected or put, he may be ordered by the Recording and Resolution Officer to pay such fine not exceeding rupees one thousand for each mark so destroyed, dismantled or removed, as may, in the opinion of that officer be necessary to defray the expenses of restoring the same and rewarding the person, if any, who gave information of the destruction, dismantling or removal.

(2) The amount of fine levied under sub-section (1) above if not paid in the manner prescribed shall be recoverable as arrears of land revenue under the Revenue Act.

(3) The imposition of a fine under this Section shall not bar a prosecution under Section 434 of the Indian Penal Code, 1860 (Act No. XLV of 1860); or prosecution of the offender under any other law that is in force.

29. **Power of Government to make rules.** - (1) The Government may by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters under this Act, namely: -

- (a) The composition and members of the village committee;
- (b) The appointment or nomination of officers under this Act for carrying out its intent and purpose;
- (c) The documents to be comprised in the standing record of rights;
- (d) The manner in which the standing records of rights is to be prepared, displayed and published;

- (e) The procedure for the transfer of the standing records of rights prepared under this Act to the revenue authorities under the Revenue Act;
- (f) The procedure for the imposition and deposit of fine imposed by the Recording and Resolution Officer for wilfully destroying, dismantling or without lawful authority removing a survey demarcation mark.
- (g) The forms for the service of summons, display, publication, preparation and maintenance of records under this Act;
- (h) The manner in which boundaries of all or any survey unit are to be demarcated and the survey marks to be erected thereon.
- (i) For issuing of copies and certified copies, including digitized copies, of record, order and documents prepared and maintained under this Act and the Rules framed thereunder.
- (j) Any other matter for giving effect to the provisions of this Act.
